

ORIGINAL



0000067293

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
GARY PIERCE

IN THE MATTER OF THE APPLICATION OF
PERKINS MOUNTAIN UTILITY COMPANY
FOR A CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. SW-20379A-05-0489

IN THE MATTER OF THE APPLICATION OF
PERKINS MOUNTAIN WATER COMPANY
FOR A CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. W-20380A-05-0490

NOTICE OF FILING

Staff of the Arizona Corporation Commission ("Staff") hereby files court documents from the Superior Court of Maricopa County regarding litigation in which Mr. James Rhodes or a corporation in which he has a controlling interest was a party.

RESPECTFULLY SUBMITTED this 26th day of February, 2007.

Keith A. Layton
Attorney, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

Arizona Corporation Commission
DOCKETED

FEB 26 2007

DOCKETED BY

nr

Original and fifteen (15) copies
of the foregoing were filed this
26th day of February, 2007 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

AZ CORP COMMISSION
DOCUMENT CONTROL

2007 FEB 26 P 3:11

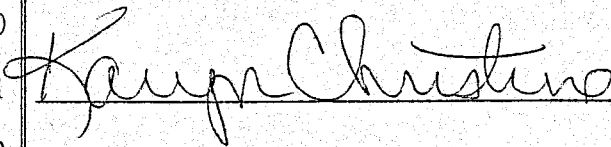
RECEIVED

1 Copies of the foregoing mailed
2 this 26th day of February, 2007 to:

3 Robert J. Metli
4 Kimberley A. Grouse
5 Snell & Wilmer
6 One Arizona Center
7 400 East Van Buren Street
8 Phoenix, Arizona 85004

9 Booker T. Evans
10 Kimberley A. Warshawsky
11 Greenberg Traurig
12 2375 East Camelback Road, Suite 700
13 Phoenix, Arizona 85016
14 Attorneys for Sports Entertainment, LLC

15
16
17
18
19
20
21
22
23
24
25
26
27
28



MICHAEL K. JEANES
Clerk of the Superior Court

By ANGELA WALKER, Deputy
Date 08/07/2006 Time 10:53 AM
Description Qty Amount
----- CASE# CV2006-011358 -----
CIVIL NEW COMPLAINT 001 245.00
TOTAL AMOUNT 245.00
Receipt# 00008144793

1 BAIRD, WILLIAMS & GREER, L.L.P.
2 6225 NORTH 24TH STREET, SUITE 125
3 PHOENIX, ARIZONA 85016
4 TELEPHONE (602) 256-9400

4 Daryl M. Williams (004631)
5 Robert L. Greer (005372)

6 Attorneys for Rhodes Homes Arizona, LLC

7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
8 IN AND FOR THE COUNTY OF MARICOPA

9 RHODES HOMES ARIZONA, LLC, an
10 Arizona limited liability company,

11 Plaintiff,

12 vs.

13 STANLEY CONSULTANTS INC., an Iowa
14 corporation,

15 Defendant.

No. CV2006-011358

COMPLAINT

16 The plaintiff, Rhodes Homes Arizona, LLC, alleges for its complaint as follows:

17 1. Plaintiff is an Arizona limited liability company which is in the process of
18 developing master planned communities in Mohave County, Arizona.

19 2. Stanley Consultants is an Iowa corporation with offices in Maricopa County,
20 Arizona, which was engaged by Rhodes Homes to do civil engineering and construction-related
21 and development services for Rhodes Homes. The transactions, events and occurrences giving
22 rise to this claim occurred in Arizona.

23 3. Rhodes Homes is the actual contracting party with Stanley Consultants
24 notwithstanding the fact that certain "consultant agreements" and other documents forming the
25 basis of this action refer to Rhodes Design and Development Corporation and Rhodes Ranch
General Partnership, neither of which is a proper party to this case.

1 4. Although Stanley Consultants' Phoenix office was involved in the work done
2 for Rhodes Homes, the bulk of the work was out of Stanley Consultants' Las Vegas office.

3 5. Stanley Consultants began working for Rhodes Homes in approximately July,
4 2004.

5 6. Stanley Consultants has billed Rhodes Homes \$6,895,189.84 for work it
6 claims has been performed, and Rhodes Homes has paid \$5,459,403.04, leaving an unpaid
7 balance, according to Stanley Consultants, of \$1,489,567.06.

8 7. Stanley Consultants was employed by Rhodes Homes because it represented
9 it had the expertise and the experience to do the engineering and consulting work necessary to
10 help Rhodes Homes with the government approval process and development of master planned
11 communities in Mohave County efficiently and expeditiously . Stanley Consultants knew that
12 Rhodes Homes was relying upon its representations as to its expertise, acumen and capabilities
13 for the development and necessary engineering and permitting of the projects being developed by
14 Rhodes Homes.

15 8. As a part of Stanley Consultants' activities, it was specifically directed to
16 stop work on certain projects, but it disregarded instructions, and continued the projects and
17 billings which resulted in payments to Stanley Consultants that did not have value to Rhodes
18 Homes.

19 9. Stanley Consultant's activities on behalf of Rhodes Homes were dilatory and,
20 contrary to the representations which had been made to Rhodes Homes, involved activities in
21 which Stanley Consultants Las Vegas did not have experience so that Stanley Consultants'
22 dilatoriness was exacerbated by its lack of familiarity with processes and requirements by
23 governmental agencies.

24 10. Significant parts of work done by Stanley Consultants was ineffective.
25

1 11. Rhodes Homes has suffered damages because of loss of good will at various
2 government offices and agencies, including Mohave County, the Arizona Department of
3 Environmental Quality, the Arizona Department of Water Resources, and the Arizona Corporation
4 Commission.

5 12. Rhodes Homes has suffered damages occasioned by the delay in the
6 development of the project.

7 13. Rhodes Homes has been damaged because of the over-billing by Stanley
8 Consultants.

9 14. Rhodes Homes will suffer damages because of expenses which will be
10 incurred because of defective work done by Stanley Consultants.

11 **COUNT ONE**
12 **(Breach of Contract)**

13 15. Stanley Consultants' activities constitute a breach of contract entitling
14 Rhodes Homes to damages as will be proved at trial.

15 **COUNT TWO**
16 **(Bad Faith)**

17 16. Stanley Consultants has violated its obligations of good faith and fair dealing
18 in its relationships with Rhodes Homes, entitling Rhodes Homes to damages as will be proven at
19 trial.

20 **COUNT THREE**
21 **(Declaratory Relief and Replevin)**

22 17. It is alleged upon information and belief that Stanley Consultants claims or
23 may claim that the work it has done for which Rhodes Homes has paid belongs to Stanley
24 Consultants.

25 18. Stanley Consultants may assert improper claims against Rhodes Homes with
respect to the work Stanley Consultants has done.

1 19. Rhodes Homes is entitled to a declaratory judgment declaring that it is
2 licensed and entitled to use all of the work which has been done by Stanley Consultants.

3 20. Rhodes Homes is entitled to a writ of replevin to recover all documents, files
4 and records in whatever form, including electronic, of all the work for which Rhodes Homes has
5 paid.

6 **COUNT FOUR**
7 **(Fraud)**

8 21. When Stanley Consultants induced Rhodes Homes to enter into its
9 relationships with respect to the various projects involved in this case, it materially misrepresented
10 that it was competent and capable of doing the project when in fact it knew that these
11 misrepresentations were false and that Rhodes Homes did not know they were false. Rhodes
12 Homes relied upon the representations as to Stanley Consultants' competency, had a right to rely
13 upon them, and as a direct and proximate result, was damaged so that Rhodes Homes is entitled
14 to recover those damages suffered.

15 22. During the course of the billing process, Stanley Consultants has intentionally
16 misrepresented the work that it has done, these misrepresentations being material and the falsity
17 of these representations being known to Stanley Consultants. Stanley Consultants also knew that
18 Rhodes Homes did not know the falsity, made the representations with the intent that Rhodes
19 homes did rely upon them, Rhodes Homes did rely upon them, had the right to rely upon them and
20 as a result, overpaid Stanley Consultants.

21 **COUNT FIVE**
22 **(Punitive Damages)**

23 23. In all factual allegations herein, Stanley Consultants acted to serve its own
24 interests and knew or should have known, yet consciously disregarded, the substantial risk that its
25 conduct might significantly injure the rights of others, including Rhodes Homes, thereby entitling
Rhodes Homes to recover punitive damages.

1 WHEREFORE judgment is demanded as follows:

2 A. Awarding Rhodes Homes damages as will be established at trial.

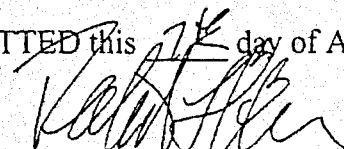
3 B. Rhodes Homes is entitled to a declaration that it is entitled to use the work
4 product of Stanley Consultants.

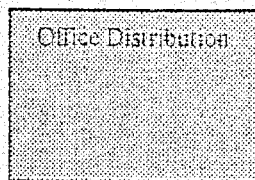
5 C. Awarding Rhodes Homes punitive damages.

6 D. Awarding Rhodes Homes attorneys fees and costs pursuant to contract or
7 A.R.S. § 12-341.01.

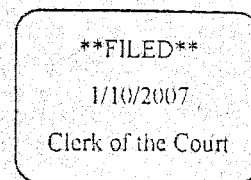
8 E. For such other relief as the court deems appropriate.

9
10 RESPECTFULLY SUBMITTED this 22nd day of August, 2006.

11 
12 _____
13 Daryl M. Williams
14 Robert L. Greer
15 *Baird, Williams, Greer, L.L.P.*
16 6225 North 24th Street, Suite 125
17 Phoenix, Arizona 85016
18 Attorneys for
19
20
21
22
23
24
25



SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY



1/6/2007

COURT ADMINISTRATION

Ct. Admin
Deputy

CASE NUMBER: CV2006-011358

Rhodes Homes Arizona L L C

V.

Stanley Consultants Inc

The Judge assigned to this action is the Honorable Colin F Campbell

150 DAY ORDER

This action was filed more than 150 days ago. If there is any conflict between this order and any order from the assigned judge, the assigned judge's order governs. This order provides notice of requirements, pursuant to Rule 38.1, Arizona Rules of Civil Procedure. Rule 38.1 applies to all civil actions, including those subject to arbitration.

IT IS HEREBY ORDERED:

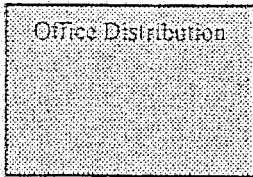
Rule 38.1 of the Arizona Rules of Civil Procedure will be strictly enforced. The parties shall file and serve on court and counsel the following documents:

1. A motion to Set and Certificate of Readiness or an Appeal from Arbitration shall be filed on or before 5/4/2007. (The motion shall include an estimate of the length of trial) If Rule 38.1 is not complied with, the case will be placed on Inactive Calendar on the date shown above and it will be dismissed pursuant to Rule 38.1, without further notice, on or after 7/3/2007. *

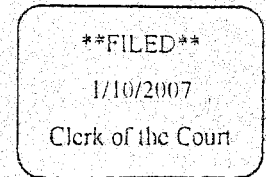
2. All parties' specific objections to witnesses and exhibits listed by other parties must be submitted with or stated in the Joint Pretrial Statement. Reserving all objections to witnesses or exhibits until time of trial will not be permitted.

LATE DISCOVERY. A Motion to set and Certificate of Readiness certifies that the parties have completed or will have had a reasonable opportunity to complete discovery within 60 days after the motion is filed. [Local Rule 3.4 and Rule 38.1 (f) Arizona Rules of Civil Procedure] Discovery should be completed in accordance with the Rule.

IF THIS IS AN ARBITRATION CASE. If this case is subject to mandatory arbitration, Rule 74 (b) of the Arizona Rules of Civil Procedure establishes the time for beginning the arbitration hearing. In light of the deadlines established by Rule 38.1 (d) of the Arizona Rules of Civil Procedure, counsel should be sure that arbitrators are timely appointed and that arbitrators complete the arbitration process within the time provided under Rule 38.1 (d) for motions to set. As Rule 76(a) of the Arizona Rules of Civil Procedure provides, an Appeal from Arbitration and Motion to Set for Trial serves in place of a Motion to Set and Certificate of Readiness under Rule 38.1 (a), Arizona Rules of Civil Procedure.



SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY



1/6/2007

COURT ADMINISTRATION

Ct. Admin
Deputy

CASE NUMBER: CV2006-011358

Rhodes Homes Arizona L L C

V.

Stanley Consultants Inc

EXTENSIONS OF TIME TO SERVE PROCESS. If there has been an extension of time to serve the summons and complaint, (a) Rule 38.1 still applies and (b) some parties and counsel may not receive a copy of this order. Plaintiff should send copies to each of them and retain a copy of the transmittal letter.

ALTERNATIVE DISPUTE RESOLUTION. Pursuant to Rule 16 (g), Ariz. Rules of Civil Procedures, counsel for the parties, or the parties if not represented by counsel, shall confer regarding the feasibility of resolving the parties' dispute through alternative dispute resolution methods such as mediation or arbitration with a mediator or arbitrator agreed to by the parties. Counsel shall discuss with their clients the resolution of the dispute through an alternative dispute resolution method prior to the conference with opposing counsel.

***RELIEF FROM RULE 38.1 DEADLINES; CONTINUANCES ON INACTIVE CALENDAR.** The rules require a Motion to Set within nine months after the action is filed. Discovery is to be completed about two months later (see Late Discovery above). A motion to vacate or abate this order will not change the deadlines. A premature Motion to Set violates Rule 11, Arizona Rules of Civil Procedures.

For good cause, the assigned judge may extend time for dismissal or continue the action on Inactive Calendar to an appropriate date. If an arbitration hearing has been held, or is set in the near future, the date of that hearing should be included in any motion to extend Rule 38.1 deadlines or to continue on Inactive Calendar. Stipulations to continue and delays for settlement negotiations are not good cause. Except in extraordinary cases, the court will not grant trial continuances based on late discovery.

Superior Court of Maricopa County - integrated Court Information System

Endorsee Party Listing

Case Number: CV2006-011358

Party Name	Attorney Name	
Rhodes Homes Arizona L L C Stanley Consultants Inc	DARYL M WILLIAMS P DOUGLAS FOLK	Bar ID: 004631 Bar ID: 006340

MICHAEL K. JEANES
Clerk of the Superior Court

By VANESSA (IRASEMA) MARTINEZ, Deputy

Date 08/04/2006 Time 04:45 PM

Description	Qty	Amount
CASE# CV2006-091746 ✓		
CDM NO TRIAL FEE	001	230.00
SUBPOENA	001	18.00

TOTAL AMOUNT 248.00

Receipt# 00008143385

1 C. Adam Buck, AZ State Bar No. 023128
2 WINSOR LAW FIRM, PLC
3 1201 S. Alma School Rd., Suite 11100
4 Mesa, Arizona 85210
5 Phone 480.505.7044 / Fax 480.503.8353
6 cabuck@winsorlaw.com
7 Attorneys for Post Buckley Schuh & Jernigan

8 G. Mark Albright, Esq.
9 Nevada Bar No. 001394
10 Tony M. May, esq.
11 Nevada Bar No. 008563
12 **ALBRIGHT, STODDARD, WARNICK & ALBRIGHT**
13 801 South Rancho Drive, Suite D-4
14 Las Vegas, NV 89106
15 (702) 384-7111
16 Attorneys for Post Buckley Schuh & Jernigan

11 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

12 IN AND FOR THE COUNTY OF MARICOPA

13 ZENAIDA B. PRADO, individually and as heir
14 and personal representative of the Estate of
15 CARLO B. PRADO,

16 Plaintiff,

17 v.

18 JUSTON SHEARER; JUSTON LADNER;
19 LEONARD SHEARER; RHODES DESIGN
20 AND DEVELOPMENT CORPORATION d/b/a
21 RHODES HOMES; GRANADA HILLS
22 HOMEOWNERS ASSOCIATION; GRANADA
23 HILLS INVESTOR LIMITED PARTNERSHIP
24 ; POST, BUCKLEY, SCHUH & JERNIGAN,
25 INC., CLARK COUNTY, a political subdivision
26 of the State of Nevada; and DOES 1 through 20,
27 inclusive,

28 Defendants.

CV2006 091746
Case No.:

IN RE: ZENAIDA B. PRADO, individually and as heir and
personal representative of the Estate of CARLO B. PRADO v.
JUSTON SHEARER; JUSTON LADNER; LEONARD
SHEARER; RHODES DESIGN AND DEVELOPMENT
CORPORATION d/b/a RHODES HOMES; GRANADA
HILLS HOMEOWNERS ASSOCIATION; GRANADA
HILLS INVESTOR LIMITED PARTNERSHIP
; POST, BUCKLE, SCHUH & JERNIGAN, INC., CLARK
COUNTY, a political subdivision of the State of Nevada; and
DOES 1 through 20, inclusive,

District Court of Clark County, Nevada, Case No. A484108

**APPLICATION FOR
SUBPOENA ISSUANCE**

24 Pursuant to Rule 30(h) of the Arizona Rules of Civil Procedure, counsel for the plaintiff
25 in the above referenced matter, submits this Application to the Superior Court of Arizona,
26 Maricopa County, requesting the issuance of subpoenas.

1 1. The attorneys for all other parties in the action pending in the foreign jurisdiction
2 were notified of this Application by service via facsimile and through United States First class
3 mail.

4 2. For the purpose of taking deposition, the plaintiff wishes to subpoena the
5 following individuals :

6 a. Kevin Aldridge

7 3. The State of Nevada authorizes the taking of this deposition by Nevada Rules of
8 Civil Procedure, Rule 26. The Defendant, Post Buckley Schuh & Jernigan, submits with this
9 application the following-described orders of the District Court of Clark County, Nevada
authorizing the taking of the subject deposition::

10 a. Original "Amended Notice of Deposition";

11 b. Original "Commission to take Deposition Duces Tecum Outside the State
12 of Nevada".

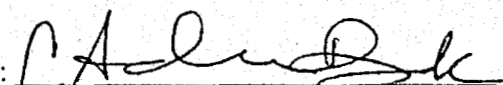
13 Accordingly, Defendant, Post Buckley Schuh & Jernigan by their undersigned attorney
14 files this Application with the Superior Court of Arizona, Maricopa County, and requests that it
15 issue a Subpoena, by its proper and usual process.

16 **RESPECTFULLY SUBMITTED** this 4 day of August, 2006

17 G. Mark Albright, Esq.
18 Nevada Bar No. 001394
19 Tony M. May, esq.
20 Nevada Bar No. 008563
21 **ALBRIGHT, STODDARD,**
WARNICK & ALBRIGHT
801 South Rancho Drive, Suite D-4
Las Vegas, NV 89106
(702) 384-7111

C. Adam Buck, Esq.
WINSOR LAW FIRM, PLC
1201 South Alma School Road, Suite 11100
Mesa, Arizona 85210
(480) 505-7044
cabuck@winsorlaw.com

22 ATTORNEYS FOR DEFENDANT,
23 POST BUCKLEY, SCHUH & JERNIGAN

24
25 By: 
26 C. Adam Buck, Esq.

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-4
801 S. RANCHO DRIVE
LAS VEGAS, NEVADA 89106

1 NOTC
2 G. MARK ALBRIGHT, ESQ.
3 Nevada Bar No. 001394
4 TONY M. MAY, P.E., ESQ.
5 Nevada Bar No. 008563
6 ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
7 801 South Rancho Dr., Suite D-4
8 Las Vegas, NV 89106
9 (702) 384-7111
10 *Attorneys for Post Buckley Schuh and Jernigan*

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA

13 ZENAIDA B. PRADO, individually and as
14 heir and personal representative of the Estate
15 of CARLO B. PRADO, Deceased,

16 Plaintiff,

17 vs.

18 JUSTON SHEARER; JUSTON LADNER;
19 LEONARD SHEARER; RHODES DESIGN
20 AND DEVELOPMENT CORPORATION
21 d//b/a RHODES HOMES; GRANADA HILLS
22 HOMEOWNERS ASSOCIATION;
23 GRANADA HILLS INVESTOR LIMITED
24 PARTNERSHIP; POST, BUCKLEY, SCHUH
25 & JERNIGAN, INC.; CLARK COUNTY, a
26 political subdivision of the State of Nevada;
27 and DOES 1 through 20, inclusive,

28 Defendants.

Case No.: A484108

Dept. No.: X

AMENDED NOTICE OF TAKING
DEPOSITION

Date: August 10, 2006

Time: 1:00 p.m.

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on August 10, 2006 at the hour of 1:00 p.m., at the law
offices of Jack Barker, located at 1630 East White Mountain Boulevard, Suite B, Pinetop
Arizona, 85935, Defendant Post Buckley Schuh & Jernigan (hereinafter PBS&J), will take the
deposition of Kevin Aldridge, upon oral examination, pursuant to N.R.C.P. Rule 26, before a

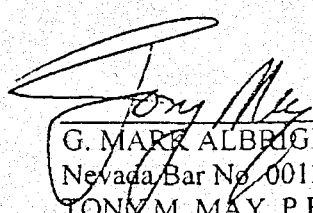
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-4
801 S. RANCHO DRIVE
LAS VEGAS, NEVADA 89106

1 Notary Public, or some other offices authorized by law to administer oaths. Oral examination
2 will continue from day to day until completed.

3 You are invited to attend and cross-examine.

4 Dated this 31st day of July, 2006.
5

6 ALBRIGHT, STODDARD, WARNICK &
7 ALBRIGHT, P.C.
8

9
10 
G. MARK ALBRIGHT, ESQ.

Nevada Bar No. 001394

11 TONY M. MAY, P.E., ESQ.

Nevada Bar No. 008563

12 801 South Rancho Dr., Suite D-4

13 Las Vegas, NV 89106

14 (702) 384-7111

15 Attorneys for Post Buckley Schuh and Jernigan
16
17
18
19
20
21
22
23
24
25
26
27
28

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-4
801 S. RANCHO DRIVE
LAS VEGAS, NEVADA 89106

CERTIFICATE OF FACSIMILE AND MAILING

I hereby certify that on the 31st day of July, 2006, I placed a true and correct copy of the foregoing NOTICE OF TAKING DEPOSITION in the United States Mail, postage prepaid and addressed to the following:

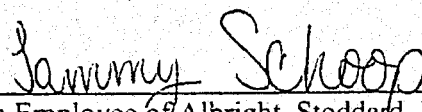
Richard A. Harris
Harris Law Firm
801 S. 4th Street
Las Vegas, NV 89101
Attorney for Plaintiff Zenaida B. Prado and Estate of Carlo B. Prado

Ronald M. Pehr
5685 W. Spring Mountain Rd.
Las Vegas, NV 89146
Attorney for Defendant Juston Ladner-Shearer

Ike L. Epstein
Beckley Singleton
530 Las Vegas Blvd South
Las Vegas, NV 89101
Attorney for Defendant Rhodes Design and Development Co.
and Granada Hills Investor Ltd Partnership

Evangelina Garcia-Mendoza
Garcia-Mendoza & Snavelly Chtd.
501 South 7th Street.
Las Vegas, NV 89101
Attorney for Defendant Clark County

James P.C. Silvestri
701 Bridger Avenue Suite # 600
Las Vegas, NV 89101
Attorneys for Defendant Tiberon


An Employee of Albright, Stoddard, Warnick
& Albright

Service List
 Prado v. Shearer et al.
 Our Client: PBS&J - Post Buckley Schuh & Jernigan
 Case No. A484108

Attorney	Phone No: Fax No:	Representing:
Richard A. Harris Harris Law Firm 801 S. Fourth Street Las Vegas, Nv 89101	Phone: 702-385-1400 Fax: 702-385-9408 Secretary: Diane	Zenaida B. Prado and Estate of Carlo B. Prado
Ronald M. Pehr 5685 West Spring Mountain Road Las Vegas, Nevada 89146	Phone: 702-367-9616 X2244 Fax: 702-222-2040 Secretary: Terry	Justin Shearer, Juston Ladner- Shearer,
Ike L. Epstein Jill Marcum-Garcia Beckley Singleton 530 Las Vegas Boulevard South Las Vegas, Nevada 89101	Phone: 702-385-3373 Fax: 702-385-9447 Secretary: Monique	Rhodes Design and Development Corp & Rhodes Homes, Granada Hills Investor Ltd Partnership,
Evangelina G. Garcia-Mendoza Garcia-Mendoza & Snavely, CHTD. 501 S. Seventh Street Las Vegas, NV 89101	Phone: 702- 384-8484 Fax: 702-384-0207 Secretary: Alma	Clark County
Ryan Biggar Pyatt Silvestri & Hanlon 701 Bridger Ave., #600 Las Vegas, Nevada 89101	Phone: 702-383-6000 Fax: 702-477-0088 Secretary: Karen	Tiburon II Homeowners Association

 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO	2424	
CONNECTION TEL		3840207
SUBADDRESS		
CONNECTION ID		
ST. TIME	07/31 12:53	
USAGE T	01'26	
PGS. SENT	4	
RESULT	OK	

1 NOTC

2 G. MARK ALBRIGHT, ESQ.

3 Nevada Bar No. 001394

4 TONY M. MAY, P.E., ESQ.

5 Nevada Bar No. 008563

6 **ALBRIGHT, STODDARD, WARNICK & ALBRIGHT**

7 801 South Rancho Dr., Suite D-4

8 Las Vegas, NV 89106

9 (702) 384-7111

10 *Attorneys for Post Buckley Schuh and Jernigan*11 **DISTRICT COURT**12 **CLARK COUNTY, NEVADA**

13 ZENAIDA B. PRADO, individually and as
 14 heir and personal representative of the Estate
 15 of CARLO B. PRADO, Deceased,

16 Plaintiff,

17 vs.

18 JUSTON SHEARER; JUSTON LADNER;
 19 LEONARD SHEARER; RHODES DESIGN
 20 AND DEVELOPMENT CORPORATION
 21 d/b/a RHODES HOMES; GRANADA HILLS
 HOMEOWNERS ASSOCIATION;
 GRANADA HILLS INVESTOR LIMITED
 PARTNERSHIP; POST, BUCKLEY, SCHUH
 & JERNIGAN, INC.; CLARK COUNTY, a
 political subdivision of the State of Nevada;

Case No.: A484108

Dept. No.: X

**AMENDED NOTICE OF TAKING
 DEPOSITION**

Date: August 10, 2006Time: 1:00 p.m.

RIGIT, STODDARD, WARNICK & ALBRIGHT
 A PROFESSIONAL CORPORATION
 QUAIL PARK, SUITE D-4
 801 S. RANCHO DRIVE
 LAS VEGAS, NEVADA 89106

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-4
801 S. RANCHO DRIVE
LAS VEGAS, NEVADA 89106

1 COMM
2 G. MARK ALBRIGHT, ESQ.
3 Nevada Bar No. 001394
4 TONY M. MAY, P.E., ESQ.
5 Nevada Bar No. 008563
6 ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
7 801 South Rancho Dr., Suite D-4
8 Las Vegas, NV 89106
9 (702) 384-7111
10 Attorneys for Post Buckley Schuh and Jernigan

11 DISTRICT COURT

12 CLARK COUNTY, NEVADA

13 ZENAIDA B. PRADO, individually and as
14 heir and personal representative of the Estate
15 of CARLO B. PRADO, Deceased,

16 Plaintiff,

17 vs.

18 JUSTON SHEARER; JUSTON LADNER;
19 LEONARD SHEARER; RHODES DESIGN
20 AND DEVELOPMENT CORPORATION
21 d//b/a RHODES HOMES; GRANADA HILLS
22 HOMEOWNERS ASSOCIATION;
23 GRANADA HILLS INVESTOR LIMITED
24 PARTNERSHIP; POST, BUCKLEY, SCHUH
25 & JERNIGAN, INC.; CLARK COUNTY, a
26 political subdivision of the State of Nevada;
27 and DOES 1 through 20, inclusive,

28 Defendants.

Case No.: A484108

Dept. No.: X

COMMISSION TO TAKE DEPOSITION
DUCES TECUM OUTSIDE THE STATE
OF NEVADA

To: ANY COURT REPORTER OR ANY NOTARY PUBLIC OF THE STATE OF
ARIZONA.

YOU ARE HEREBY COMMISSIONED AND FULLY AUTHORIZED to take the
Deposition Duces Tecum of: Kevin Aldridge, in accordance with the Rules of Civil Procedure
of the State of Nevada, located in Pinetop, Arizona, on the 10th day of August, 2006, at the

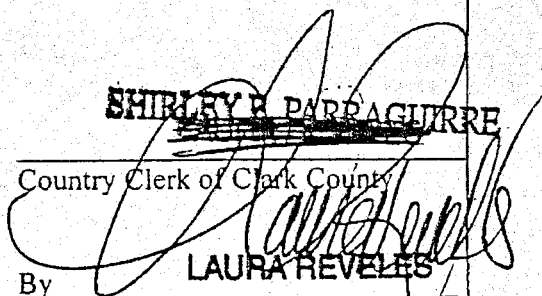
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-4
801 S. RANCHO DRIVE
LAS VEGAS, NEVADA 89106

1 hour of 1:00 p.m., respectfully, and on succeeding days until concluded, or at such other time
2 and place as may be mutually agreed upon by counsel for the respective parties hereto.

3 You shall put the witness on oath and their testimony shall be recorded by someone acting
4 under your direction, stenographically, and thereafter transcribed. Objections to evidence
5 presented shall be noted, and the evidence shall be taken subject to the objections. When the
6 testimony is fully transcribed, it shall be signed by the respective witness after a full
7 opportunity to make corrections or changes. You shall certify on the depositions that the
8 witnesses were duly sworn to you, and that the deposition is a deposition, and place it in a n
9 envelope with the title of the action and marked "Deposition of Kevin Aldridge," and send it
10 by registered mail to the undersigned.

11 Dated this 28th day of July, 2006.

12
13 SHIRLEY B. PARRAGUIRRE

14
15 ~~SHIRLEY B. PARRAGUIRRE~~
16 Country Clerk of Clark County
17 By  LAURA REVELES
18 Deputy
19 JUL 28 2008
20
21
22
23
24
25
26
27
28

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-1
801 S. RANCHO DRIVE
LAS VEGAS, NEVADA 89106

CERTIFICATE OF MAILING

I hereby certify that on the 31st day of August, 2006, I placed a true and correct copy of the foregoing COMMISSION TO TAKE DEPOSITION OUT OF THE STATE OF NEVADA in the United States Mail, postage prepaid and addressed to the following:

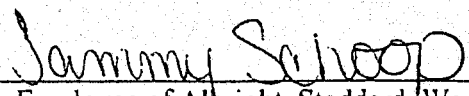
Richard A. Harris
Harris Law Firm
801 S. 4th Street
Las Vegas, NV 89101
Attorney for Plaintiff Zenaida B. Prado and Estate of Carlo B. Prado

Ronald M. Pehr
5685 W. Spring Mountain Rd.
Las Vegas, NV 89146
Attorney for Defendant Juston Ladner-Shearer

Ike L. Epstein
Beckley Singleton
530 Las Vegas Blvd South
Las Vegas, NV 89101
Attorney for Defendant Rhodes Design and Development Co.
and Granada Hills Investor Ltd Partnership

Evangelina Garcia-Mendoza
Garcia-Mendoza & Snaveley Chtd.
501 South 7th Street.
Las Vegas, NV 89101
Attorney for Defendant Clark County

James P.C. Silvestri
701 Bridger Avenue Suite # 600
Las Vegas, NV 89101
Attorneys for Defendant Tiberon


An Employee of Albright, Stoddard, Warnick
& Albright

Service List
 Prado v. Shearer et al.
 Our Client: PBS&J - Post Buckley Schuh & Jernigan
 Case No. A484108

Attorney	Phone No: Fax No:	Representing:
Richard A. Harris Harris Law Firm 801 S. Fourth Street Las Vegas, Nv 89101	Phone: 702-385-1400 Fax: 702-385-9408 Secretary: Diane	Zenaida B. Prado and Estate of Carlo B. Prado
Ronald M. Pehr 5685 West Spring Mountain Road Las Vegas, Nevada 89146	Phone: 702-367-9616 X2244 Fax: 702-222-2040 Secretary: Terry	Justin Shearer, Juston Ladner- Shearer,
Ike L. Epstein Jill Marcum-Garcia Beckley Singleton 530 Las Vegas Boulevard South Las Vegas, Nevada 89101	Phone: 702-385-3373 Fax: 702-385-9447 Secretary: Monique	Rhodes Design and Development Corp & Rhodes Homes, Granada Hills Investor Ltd Partnership,
Evangelina G. Garcia-Mendoza Garcia-Mendoza & Snavely, CHTD. 501 S. Seventh Street Las Vegas, NV 89101	Phone: 702- 384-8484 Fax: 702-384-0207 Secretary: Alma	Clark County
Ryan Biggar Pyatt Silvestri & Hanlon 701 Bridger Ave., #600 Las Vegas, Nevada 89101	Phone: 702-383-6000 Fax: 702-477-0088 Secretary: Karen	Tiburon II Homeowners Association

MICHAEL K. JEANES
Clerk of the Superior Court

By NICOLE ZAMORA, Deputy
Date 09/29/2006 Time 04:12 PM
Description Qty Amount
CASE# CV2006-014742
COM NO TRIAL FEE 001 230.00
SUBPOENA 001 18.00
TOTAL AMOUNT 248.00
Receipt# 00008280121

MARC J. DEREWETZKY (Nevada Bar No. 6619)
MORISON-KNOX HOLDEN & PROUGH, LLP
500 Ygnacio Valley Road, Suite 450
Walnut Creek, CA 94596
Telephone: (925) 937-9990
Facsimile: (925) 937-3272

RICHARD McKNIGHT, P.C.
DAVID MINCIN (Nevada Bar No. 5427)
300 South Third Street, Suite 900
Las Vegas, NV 89101
Telephone: (702) 388-7185
Facsimile: (702) 388-0108

Attorneys for Defendants
RLI INSURANCE COMPANY and
MT. HAWLEY INSURANCE COMPANY

SUPERIOR COURT OF
MARICOPA COUNTY, ARIZONA

DISTRICT COURT, CLARK COUNTY,
NEVADA CASE NO. A467077:

RHODES DESIGN & DEVELOPMENT
CORPORATION, a Nevada corporation and the
additional insureds identified herein,

Plaintiffs,

vs.

RLI INSURANCE COMPANY, a foreign entity,
MT. HAWLEY INSURANCE COMPANY, a
foreign entity, et al.,

Defendants.

AND ALL RELATED MATTERS.

CASE NO: CV2006-014742

APPLICATION FOR DEPOSITION
SUBPOENA OF MARC ADLER

Date: October 5, 2006
Time: 9:00 a.m.
Place: Coash & Coash
1802 North 7th Street
Phoenix, Arizona 85006

Defendants Mt. Hawley Insurance Company ("Mt. Hawley") and RLI Insurance Company
("RLI") hereby applies, pursuant to Arizona Rules of Civil Procedure, Rule 30(h), for the issuance of
a subpoena for the deposition of Mark Adler, a resident of Arizona.

The deposition is for an action pending in the Superior Court of the State of Nevada, Clark
County, styled Robert V. Jones Corp. et. al. v. Mt. Hawley Insurance Company, et al., case no.
A467077.

1 Mt. Hawley and RLI are represented by Marc J. Derewetzky of the law firm of Morison-
2 Knox Holden & Prough, LLP, 500 Ygnacio Valley Road, Suite 450 Walnut Creek, CA 94596 and
3 David Mincin of Richard McKnight, P.C. 300 South Third Street, Suite 900, Las Vegas, NV 89101.

4 The other parties in this matter are represented as follows:

5 Paul F. Eisinger, Esq.
6 Kevin R. Diamond, Esq.
7 Thorndal, Armstrong, Delk,
8 Balkenbush & Eisinger
9 1100 E. Bridger Avenue
Las Vegas, NV 89101
Tel: 702.366.0622
Fax: 702.366.0327

10 Counsel for Defendant Kellogg-Cutler

James E. Whitmire, III, Esq.
Santoro, Driggs, Walch, Kearney, Johnson &
Thompson
400 South Fourth Street, 3rd Floor
Las Vegas, NV 89101
Tel: 702.791.0308
Fax: 702.791.1912 or 702.792.6950

Counsel for Plaintiffs Rhodes Design &
Development

11 Karl Y. Olsen, Esq.
12 Laxalt & Nomura, Ltd.
13 9600 Gateway Drive
14 Reno, Nevada 89521
Tel: 775.322.1170
Fax: 775.322.1865

15 Counsel for Defendant Burns &
16 Wilcox

17 The deposition of Mr. Adler is authorized by section 30 and 43 of the Nevada Rules of Civil
18 Procedure. Mr. Adler, who is not a party in the pending action, is a material witness. This is an
19 action for the alleged breach of commercial umbrella liability insurance contracts. Plaintiffs contend
20 that umbrella insurance contracts issued by Mt. Hawley and RLI were supposed to contain the
21 exception to the exclusion applicable to the "Insured's Work" to the effect that the exclusion does not
22 apply to work performed on the insured's behalf by a subcontractor. Mr. Adler is a critical witness
23 on numerous issues, including communications between Jones and the surplus and retail lines
24 brokers regarding the scope of coverage requested by Rhodes.

25 The District Court of the State of Nevada, Clark County, has issued a commission for the
26 deposition of Mr. Adler. The commission appoints, authorizes and empowers a duly licensed
27 Arizona court reporter to take the testimony of Mr. Adler. A true and correct copy of the
28 commission and notice of deposition is attached hereto as Exhibit A.

1 The other parties to this action were served by overnight mail with a notice of deposition of
2 Mr. Adler on September 19, 2006. Mr. Adler has authorized Counsel for Burns & Wilcox to accept
3 service of the subpoena on his behalf, and Mt. Hawley and RLI will personally serve Burns &
4 Wilcox after this Court issues a subpoena and will serve the other parties via overnight mail.

5 Accordingly, Mt. Hawley and RLI requests that the clerk of this Court forthwith issue a
6 subpoena commanding Mr. Adler to appear and testify at Coash & Coash, 1802 North 7th Street,
7 Phoenix, Arizona, 85006 on October 5, 2006 at 9:00 a.m. The deposition may be videotaped and
8 will take place before a duly licensed court reporter and videographer. The deposition is anticipated
9 to last more than four hours.

10
11 DATED this 19th day of September, 2006

MORISON-KNOX HOLDEN & PROUGH, LLP

12
13 By 

MARC J. DEREWETZKY
Nevada State Bar No. 6619
500 Ygnacio Valley Road, Suite 450
Walnut Creek, CA 94596

14
15
16 DAVID MINCIN
Nevada State Bar No. 5427
17 RICHARD McKNIGHT, P.C.
300 South Third Street, Suite 900
18 Las Vegas, NJ 89101

19 Attorneys for Defendants
20 RLI INSURANCE COMPANY and
21 MT. HAWLEY INSURANCE COMPANY
22
23
24
25
26
27
28

EXHIBIT
A

FILED

SEP 13 11 07 AM '06

Shirley E. Ruggins
CLERK

1 COMM
2 MARC J. DEREWETZKY (No. 6619)
3 MORISON-KNOX HOLDEN & PROUGH, LLP
4 500 Ygnacio Valley Road, Suite 450
5 Walnut Creek, CA 94596
6 Telephone: (925) 937-9990
7 Facsimile: (925) 937-3272

8 RICHARD McKNIGHT, P.C.
9 DAVID MINCIN (No. 5427)
10 300 South Third Street, Suite 900
11 Las Vegas, NV 89101
12 Telephone: (702) 388-7185
13 Facsimile: (702) 388-0108

14 Attorneys for Defendants
15 RLI INSURANCE COMPANY and
16 MT. HAWLEY INSURANCE COMPANY

17 DISTRICT COURT

18 CLARK COUNTY, NEVADA

19 RHODES DESIGN & DEVELOPMENT
20 CORPORATION, a Nevada corporation and the
21 additional insureds identified herein,

22 Plaintiffs,

23 vs.

24 RLI INSURANCE COMPANY, a foreign entity,
25 MT. HAWLEY INSURANCE COMPANY, a
26 foreign entity, et al.,

27 Defendants.

28 AND ALL RELATED MATTERS.

CASE NO.: A467077
DEPT. NO.: XVII

COMMISSION TO TAKE DEPOSITION
OUTSIDE THE STATE OF NEVADA

29 Pursuant to this Commission of the above-entitled Court, made at the request of defendant
30 Mt. Hawley Insurance Company ("Mt. Hawley"), the Court has determined that Marc Adler has
31 information relevant to and necessary for the litigation of the above-entitled action and that a
32 subpoena should be issued to take Mr. Adler's deposition. This commission permits Mt. Hawley or
33 agents acting on its behalf to appoint, authorize and empower a duly licensed Arizona court reporter
34 to take the testimony of Mr. Adler and further permits you to appoint, authorize and empower a duly
35 licensed videographer to record the testimony of Mr. Adler.

Commission for Out-of-State Deposition

1 By this commission, you are hereby appointed, commissioned and authorized to take the
2 deposition of Marc Adler, who resides outside of the State of Nevada in Arizona. You are
3 authorized under this commission to execute on the subpoena issued by the Superior Court of the
4 State of Arizona. The deposition of Marc Adler shall be conducted under the rules of civil procedure
5 for the state of Nevada.

6 Dated: _____, 2006

OLGA VALENZUELA
DISTRICT COURT
Clerk of the Clark County Superior Court
SEP 13 2006

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

2006 SEP 13 A 11:19

Shirley S. Sanchez
CLERK

Commission for Out-of-State Deposition

1 NOTC
2 MARC J. DEREWETZKY (Nevada Bar No. 6619)
3 MORISON-KNOX HOLDEN & PROUGH, LLP
4 500 Ygnacio Valley Road, Suite 450
5 Walnut Creek, CA 94596
6 Telephone: (925) 937-9990
7 Facsimile: (925) 937-3272

8 RICHARD McKNIGHT, P.C.
9 DAVID MINCIN (Nevada Bar No. 5427)
10 300 South Third Street, Suite 900
11 Las Vegas, NV 89101
12 Telephone: (702) 388-7185
13 Facsimile: (702) 388-0108

14 Attorneys for Defendants
15 MT. HAWLEY INSURANCE COMPANY
16 and RLI INSURANCE COMPANY

17 DISTRICT COURT
18 CLARK COUNTY, NEVADA

19 RHODES DESIGN & DEVELOPMENT
20 CORPORATION, a Nevada corporation and the
21 additional insureds identified herein,

22 Plaintiffs,

23 v.

24 RLI INSURANCE COMPANY, a foreign entity,
25 MT. HAWLEY INSURANCE COMPANY, a foreign
26 entity, et al.,

27 Defendants.

28 CASE NO.: A467077
DEPT. NO.: XVII

MT. HAWLEY INSURANCE
COMPANY'S NOTICE OF DEPOSITION
OF MARC ADLER

Date: October 5, 2006
Time: 9:00 a.m.
Location: Coash & Coash
1802 North 7th Street
Phoenix, Arizona 85006

AND ALL RELATED MATTERS.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

PLEASE TAKE NOTICE that Mt. Hawley Insurance Company ("Mt. Hawley") will take the deposition of Marc Adler on October 5, 2006, beginning at 9:00 a.m. The deposition will be taken at Coash & Coash, located at 1802 North 7th Street, Phoenix, Arizona. The deposition will be taken before a certified shorthand reporter authorized to administer an oath and may in addition be recorded videographically. This deposition will continue from day to day, Sundays and holidays excepted, until concluded.

///

1 YOU ARE FURTHER NOTIFIED THAT:

2 1. The deponent is not a party to this action. So far as known to the deposing party, the
3 deponent's address and telephone number are as follows: Marc Adler, c/o Karl Olsen, Esq., Laxalt
4 & Nomura, 1410 Bank of America Plaza, 300 South Fourth Street, Las Vegas, Nevada 89101, 702-
5 388-1551. A COPY OF THE DEPOSITION SUBPOENA IS ATTACHED HERETO AND
6 SERVED HERewith.

7 2. The deponent is requested to bring to the deposition all documents within his
8 possession, custody or control that are described in Exhibit A to the Deposition Subpoena.

9 Dated: September 11, 2006

MORISON-KNOX HOLDEN & PROUGH, LLP

10
11 By: 

Marc J. Derewetzky (Bar No. 6619)
500 Ygnacio Valley Road, Suite 450
Walnut Creek, CA 94596

12
13 David Mincin (Nevada Bar No. 5427)
14 300 South Third Street, Suite 900
15 Las Vegas, NV 89101

16 Attorneys for Defendants
17 RLI INSURANCE COMPANY and
18 MT. HAWLEY INSURANCE COMPANY
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, the undersigned, an employee of Morison-Knox Holden & Prough, LLP, located at 500 Ygnacio Valley Road, Suite 450, Walnut Creek, California, declare under penalty of perjury that I am over the age of eighteen (18) years and not a party to this matter, action or proceeding. I am a citizen of the United States and employed in the County of Contra Costa, State of California.

On September 19, 2006, I served the following document(s):

**MT. HAWLEY INSURANCE COMPANY'S NOTICE OF
DEPOSITION OF MARC ADLER**

on the parties in this matter at the below noted address(es), as follows:

Paul F. Eisinger, Esq.
Kevin R. Diamond, Esq.
Thorndal, Armstrong, Delk,
Balkenbush & Eisinger
1100 E. Bridger Avenue
Las Vegas, NV 89101
Tel: 702.366.0622
Fax: 702.366.0327

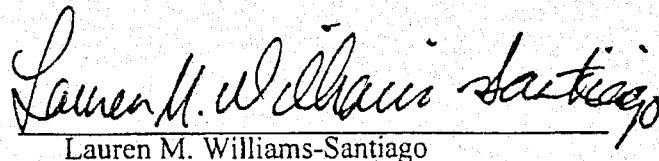
James E. Whitmire, III, Esq.
Santoro, Driggs, Walch, Kearney, Johnson &
Thompson
400 South Fourth Street, 3rd Floor
Las Vegas, NV 89101
Tel: 702.791.0308
Fax: 702.791.1912 or 702.792.6950

Karl Y. Olsen, Esq.
Laxalt & Nomura, Ltd.
9600 Gateway Drive
Reno, Nevada 89521
Tel: 775.322.1170
Fax: 775.322.1865

Marc Adler
c/o Karl Y. Olsen, Esq.
Laxalt & Nomura, Ltd.
9600 Gateway Drive
Reno, Nevada 89521
Tel: 775.322.1170
Fax: 775.322.1865

■ VIA OVERNITE EXPRESS I am familiar with the firm's practice of collecting and processing documentation for delivery via Overnight Express. Under that practice, documents are picked up by Overnight Express on the same day at 500 Ygnacio Valley Road, Walnut Creek, California and delivered to the parties as listed on the Proof of Service.

Executed on September 19, 2006, at Walnut Creek, California.


Lauren M. Williams-Santiago

ORIGINAL

MICHAEL K. JEANES
Clerk of the Superior Court

By MARK LEONG, Deputy
Date 05/02/2006 Time 01:04 PM
Description Qty Amount
CASE# CV2006-006306
SUBPOENA 002 36.00
PET TO TAKE DEPO 001 230.00
TOTAL AMOUNT 266.00
Receipt# 00007897086

1 APPL
2 MARK A. KULLA, ESQ.
3 NV Bar No. 3987
4 SPILOTRO & KULLA
5 626 South Third Street
6 Las Vegas Nevada 89101
7 (702) 385-4994
8
9 NANCY QUON, ESQ.
10 Nevada Bar No. 6099
11 JASON W. BRUCE, ESQ.
12 Nevada Bar No. 6916
13 JAMES R. CHRISTENSEN, ESQ.
14 Nevada Bar No. 3861
15 QUON BRUCE CHRISTENSEN LAW FIRM
16 2330 Paseo Del Prado, Suite C-101
17 Las Vegas, NV 89102
18 (702) 942-1600
19
20 ECKLEY M. KEACH, ESQ.
21 Nevada Bar No. 1194
22 ECKLEY M. KEACH, CHTD.
23 520 South Fourth Street
24 Las Vegas, Nevada 89101
25 (702) 384-5563
26 Attorneys for Plaintiff

SUPERIOR COURT
COUNTY OF MARICOPA, STATE OF ARIZONA

17 VISTAÑA CONDOMINIUM OWNERS
18 ASSOCIATION, INC., a Nevada non-profit
19 corporation;

Plaintiff,

vs.

20 RHODES RANCH LIMITED PARTNERSHIP,
21 a Nevada Limited Partnership, RHODES DESIGN
22 AND DEVELOPMENT CORPORATION, a
23 Nevada Corporation, SAGEBRUSH
24 ENTERPRISES, INC., a Nevada Corporation,
25 RHODES RANCH LLC, a Nevada Limited
26 Liability Company; RHODES RANCH GENERAL
27 PARTNERSHIP; a Nevada general partnership;
28 RHODES HOMES, a Nevada Corporation;
JAMES A. BEVAN, an individual; MOE
INDIVIDUALS 1-100, ROE BUSINESS
ENTITIES 1-100, and GOE GOVERNMENTAL
ENTITIES 1-100, inclusive,

Defendants.

CV2006-006306

Case No.
Dept. No.

APPLICATION FOR
ISSUANCE OF COMMISSION
TO TAKE DEPOSITION
IN A NEVADA CASE

1 COMES NOW Plaintiff VISTANA CONDOMINIUM OWNERS ASSOCIATION,
2 INC. ("Plaintiff"), by and through its attorneys of record, QUON BRUCE CHRISTENSEN,
3 and pursuant to Rules 28(a) and 30 of the Nevada Rules of Civil Procedure, makes application
4 to this Court for issuance of a Commission to take the deposition of the CUSTODIAN OF
5 RECORDS for GEORGE S. TIBSHERANY INCORPORATED, in the State of Arizona for a
6 Nevada District Court case at 9:00 a.m. on Thursday, June 8, 2006 at the offices of Coash &
7 Coash, 1802 N. 7th, Phoenix, Arizona, (602)258-1440, and respectfully show the court as
8 follows:

9 1. Applicant is the attorney of record for Plaintiff in the above-entitled case and
10 cause.

11 2. The corporate deponent, CUSTODIAN OF RECORDS for GEORGE S.
12 TIBSHERANY INCORPORATED, upon information and belief, operates his business in
13 Scottsdale, Arizona.

14 3. Plaintiff will provide for the attendance of a court reporter at the time and place,
15 who is authorized to administer oaths under the laws of the State of Arizona for the taking of
16 the deposition of CUSTODIAN OF RECORDS for GEORGE S. TIBSHERANY
17 INCORPORATED.

18 4. A copy of "Plaintiff's Notice of Taking Deposition of the CUSTODIAN OF
19 RECORDS for GEORGE S. TIBSHERANY INCORPORATED, is attached hereto as Exhibit
20 1 and incorporated herein by reference.

21 5. Under Rule 28(a) of the Nevada Rules of Civil Procedure, upon application and
22 proof that the Notice of Taking Deposition outside the State of Nevada has been given as
23 provided in Nevada Rules of Civil Procedure 30(b)(1), the Clerk of this Court is authorized to
24 issue a Commission for the taking of depositions of witnesses in the State of Arizona for a
25 Nevada District Court case.

26 ///

27 ///

28 ///

1 WHEREFORE, Applicant prays that the clerk of the Court issue a Commission to take
2 the Deposition of CUSTODIAN OF RECORDS for GEORGE S. TIBSHERANY
3 INCORPORATED, in the State of Arizona for a Nevada District Court case, to-wit: Phoenix,
4 Arizona, on Thursday, June 8, 2006 at 9:00 a.m.

5 Respectfully submitted this 1st day of May, 2006.

6 QUON BRUCE CHRISTENSEN

7
8 By: Nancy Quon
9 NANCY QUON, ESQ.
Nevada Bar No. 6099
10 JASON W. BRUCE, ESQ.
Nevada Bar No. 6916
11 JAMES R. CHRISTENSEN, ESQ.
Nevada Bar No. 3861
2330 Paseo Del Prado, Suite C-101
12 Las Vegas, Nevada 89102
(702) 942-1600

13
14 MARK A. KULLA, ESQ.
Nevada Bar No. 3987
SPILOTRO & KULLA
15 626 South Third Street
Las Vegas Nevada 89101
16 (702) 385-4994

17 ECKLEY M. KEACH, ESQ.
Nevada Bar No. 1194
18 ECKLEY M. KEACH, CHTD.
520 South Fourth Street
19 Las Vegas, Nevada 89101
(702) 384-5563
20 *Attorneys for Plaintiff*

1 NOTC
2 MARK A. KULLA, ESQ.
3 NV Bar No. 3987
4 SPILOTRO & KULLA
5 626 South Third Street
6 Las Vegas Nevada 89101
7 (702) 385-4994
8
9 NANCY QUON, ESQ.
10 Nevada Bar No. 6099
11 JASON W. BRUCE, ESQ.
12 Nevada Bar No. 6916
13 JAMES R. CHRISTENSEN, ESQ.
14 Nevada Bar No. 3861
15 QUON BRUCE CHRISTENSEN LAW FIRM
16 2330 Paseo Del Prado, Suite C-101
17 Las Vegas, NV 89102
18 (702) 942-1600
19
20 ECKLEY M. KEACH, ESQ.
21 Nevada Bar No. 1194
22 ECKLEY M. KEACH, CHTD.
23 520 South Fourth Street
24 Las Vegas, Nevada 89101
25 (702) 384-5563
26 Attorneys for Plaintiff
27
28

DISTRICT COURT
COUNTY OF CLARK, STATE OF NEVADA

17 VISTAÑA CONDOMINIUM OWNERS
18 ASSOCIATION, INC., a Nevada non-profit
19 corporation;
20
21 Plaintiff,
22
23 vs.
24 RHODES RANCH LIMITED PARTNERSHIP,
25 a Nevada Limited Partnership, RHODES DESIGN
26 AND DEVELOPMENT CORPORATION, a
27 Nevada Corporation, SAGEBRUSH
28 ENTERPRISES, INC., a Nevada Corporation,
RHODES RANCH LLC, a Nevada Limited
Liability Company; RHODES RANCH GENERAL
PARTNERSHIP; a Nevada general partnership;
RHODES HOMES, a Nevada Corporation;
JAMES A. BEVAN, an individual; MOE
INDIVIDUALS 1-100, ROE BUSINESS
ENTITIES 1-100, and GOE GOVERNMENTAL
ENTITIES 1-100, inclusive,
Defendants.

FILED

May 1 9 15 AM '06

Shirley S. Higgins
CLERK

Case No. A498921
Dept. No. XIX

COMMISSION TO TAKE
DEPOSITION OUTSIDE
THE STATE OF NEVADA,

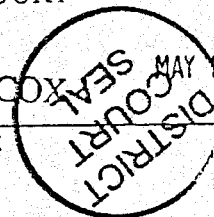
1 TO: COASH & COASH, or any Notary Public of the State of Arizona

2 YOU ARE HEREBY COMMISSIONED AND FULLY AUTHORIZED to take the
3 deposition of the Custodian of Records for GEORGE S. TIBSHERANY INCORPORATED, in
4 accordance with the Rules of Civil Procedure of the State of Nevada, at the offices of Coash &
5 Coash, 1802 N. 7th, Phoenix, Arizona, (602)258-1440 on the 8th day of June, 2006, at the hour
6 of 9:00 a.m., and on succeeding days until concluded, or at such other time and places as may
7 be mutually agreed upon by counsel for the respective parties hereto.

8 Dated this 1 day of May, 2006.

9 CLERK OF THE COURT

10 By: PEGGY WILCOX MAY 11 2006
11 Deputy Clerk



12 Issued at the Request of:

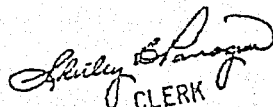
13 **QUON BRUCE CHRISTENSEN**

14 By: 

15 NANCY QUON, ESQ.
16 Nevada Bar No. 6099
17 JASON W. BRUCE, ESQ.
18 Nevada Bar No. 6916
19 JAMES R. CHRISTENSEN, ESQ.
20 Nevada Bar No. 3861
21 2330 Paseo Del Prado, Suite C-101
22 Las Vegas, Nevada 89102
23 (702) 942-1600
24 Attorneys for Plaintiff

25 DOCUMENT ATTACHED IS A
26 TRUE AND CORRECT COPY
27 OF THE ORIGINAL ON FILE.

28 2006 MAY -1 A 9 18


CLERK

ORIGINAL

NOTC
MARK A. KULLA, ESQ.
NV Bar No. 3987
SPILOTRO & KULLA
626 South Third Street
Las Vegas Nevada 89101
(702) 385-4994

NANCY QUON, ESQ.
Nevada Bar No. 6099
JASON W. BRUCE, ESQ.
Nevada Bar No. 6916
JAMES R. CHRISTENSEN, ESQ.
Nevada Bar No. 3861
QUON BRUCE CHRISTENSEN LAW FIRM
2330 Paseo Del Prado, Suite C-101
Las Vegas, NV 89102
(702) 942-1600

ECKLEY M. KEACH, ESQ.
Nevada Bar No. 1194
ECKLEY M. KEACH, CHTD.
520 South Fourth Street
Las Vegas, Nevada 89101
(702) 384-5563
Attorneys for Plaintiff

DISTRICT COURT

COUNTY OF CLARK, STATE OF NEVADA

VISTAÑA CONDOMINIUM OWNERS
ASSOCIATION, INC., a Nevada non-profit
corporation;

Plaintiff,

vs.

RHODES RANCH LIMITED PARTNERSHIP,
a Nevada Limited Partnership, RHODES DESIGN
AND DEVELOPMENT CORPORATION, a
Nevada Corporation, SAGEBRUSH
ENTERPRISES, INC., a Nevada Corporation,
RHODES RANCH LLC, a Nevada Limited
Liability Company; RHODES RANCH GENERAL
PARTNERSHIP; a Nevada general partnership;
RHODES HOMES, a Nevada Corporation;
JAMES A. BEVAN, an individual; MOE
INDIVIDUALS 1-100, ROE BUSINESS
ENTITIES 1-100, and GOE GOVERNMENTAL
ENTITIES 1-100, inclusive,

Defendants.

Case No. A498921
Dept. No. XIX

NOTICE OF TAKING
DEPOSITION OF THE
CUSTODIAN OF RECORDS
FOR GEORGE S.
TIBSHERANY

1 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

2 PLEASE TAKE NOTICE that on Thursday, June 8, 2006, at 9:00 a.m., at the offices of
3 Coash & Coash, 1802 N. 7th, Phoenix, Arizona, (602)258-1440, Plaintiff, by and through its
4 counsel of record, QUON BRUCE CHRISTENSEN, pursuant to Rule 30 of the Nevada Rules
5 of Civil Procedure, will take the deposition of the CUSTODIAN OF RECORDS for GEORGE
6 S. TIBSHERANY.

7 Oral examination will be taken pursuant to Nevada Rule of Civil Procedure 30, before a
8 Notary Public, or before some other officer authorized by law to administer oaths and it will
9 continue from day to day until completed. You are invited to attend and cross-examine.

10 Respectfully submitted this 1st day of May, 2006.

11 QUON BRUCE CHRISTENSEN

12
13 By: 

NANCY QUON, ESQ.
Nevada Bar No. 6099
JASON W. BRUCE, ESQ.
Nevada Bar No. 6916
JAMES R. CHRISTENSEN, ESQ.
Nevada Bar No. 3861
2330 Paseo Del Prado, Suite C-101
Las Vegas, Nevada 89102
(702) 942-1600

18 MARK A. KULLA, ESQ.
19 Nevada Bar No. 3987
20 SPILOTRO & KULLA
21 626 South Third Street
Las Vegas Nevada 89101
(702) 385-4994

22 ECKLEY M. KEACH, ESQ.
23 Nevada Bar No. 1194
24 ECKLEY M. KEACH, CHTD.
25 520 South Fourth Street
26 Las Vegas, Nevada 89101
27 (702) 384-5563
28 *Attorneys for Plaintiff*

ORIGINAL

MICHAEL K. JEANES, CLERK
BY *[Signature]* DEP
FILED

2006 MAY -2 PM 1:03

1 APPL
2 MARK A. KULLA, ESQ.
3 NV Bar No. 3987
4 SPILOTRO & KULLA
5 626 South Third Street
6 Las Vegas Nevada 89101
7 (702) 385-4994
8
9 NANCY QUON, ESQ.
10 Nevada Bar No. 6099
11 JASON W. BRUCE, ESQ.
12 Nevada Bar No. 6916
13 JAMES R. CHRISTENSEN, ESQ.
14 Nevada Bar No. 3861
15 QUON BRUCE CHRISTENSEN LAW FIRM
16 2330 Paseo Del Prado, Suite C-101
17 Las Vegas, NV 89102
18 (702) 942-1600
19
20 ECKLEY M. KEACH, ESQ.
21 Nevada Bar No. 1194
22 ECKLEY M. KEACH, CHTD.
23 520 South Fourth Street
24 Las Vegas, Nevada 89101
25 (702) 384-5563
26 Attorneys for Plaintiff
27
28

SUPERIOR COURT

COUNTY OF MARICOPA, STATE OF ARIZONA

17 VISTAÑA CONDOMINIUM OWNERS
18 ASSOCIATION, INC., a Nevada non-profit
19 corporation;

20 Plaintiff,

21 vs.

22 RHODES RANCH LIMITED PARTNERSHIP,
23 a Nevada Limited Partnership, RHODES DESIGN
24 AND DEVELOPMENT CORPORATION, a
25 Nevada Corporation, SAGEBRUSH
26 ENTERPRISES, INC., a Nevada Corporation,
27 RHODES RANCH LLC, a Nevada Limited
28 Liability Company; RHODES RANCH GENERAL
PARTNERSHIP; a Nevada general partnership;
RHODES HOMES, a Nevada Corporation;
JAMES A. BEVAN, an individual; MOE
INDIVIDUALS 1-100, ROE BUSINESS
ENTITIES 1-100, and GOE GOVERNMENTAL
ENTITIES 1-100, inclusive,

Defendants.

CV2006-006306

Case No.
Dept. No.

APPLICATION FOR
ISSUANCE OF COMMISSION
TO TAKE DEPOSITION
IN A NEVADA CASE

1 COMES NOW Plaintiff VISTANA CONDOMINIUM OWNERS ASSOCIATION,
2 INC. ("Plaintiff"), by and through its attorneys of record, QUON BRUCE CHRISTENSEN,
3 and pursuant to Rules 28(a) and 30 of the Nevada Rules of Civil Procedure, makes application
4 to this Court for issuance of a Commission to take the deposition of GEORGE S.

5 TIBSHERANY, dba GEORGE S. TIBSHERANY INCORPORATED, in the State of Arizona
6 for a Nevada District Court case at 9:00 a.m. on Thursday, June 22, 2006 at the offices of
7 Coash & Coash, 1802 N. 7th, Phoenix, Arizona, (602)258-1440, and respectfully show the court
8 as follows:

9 1. Applicant is the attorney of record for Plaintiff in the above-entitled case and
10 cause.

11 2. The corporate deponent, GEORGE S. TIBSHERANY, dba GEORGE S.
12 TIBSHERANY INCORPORATED, upon information and belief, operates his business in
13 Scottsdale, Arizona.

14 3. Plaintiff will provide for the attendance of a court reporter at the time and place,
15 who is authorized to administer oaths under the laws of the State of Arizona for the taking of
16 the deposition of GEORGE S. TIBSHERANY, dba GEORGE S. TIBSHERANY
17 INCORPORATED.

18 4. A copy of "Plaintiff's Notice of Taking Deposition of GEORGE S.
19 TIBSHERANY, dba GEORGE S. TIBSHERANY INCORPORATED, is attached hereto as
20 Exhibit 1 and incorporated herein by reference.

21 5. Under Rule 28(a) of the Nevada Rules of Civil Procedure, upon application and
22 proof that the Notice of Taking Deposition outside the State of Nevada has been given as
23 provided in Nevada Rules of Civil Procedure 30(b)(1), the Clerk of this Court is authorized to
24 issue a Commission for the taking of depositions of witnesses in the State of Arizona for a
25 Nevada District Court case.

26 ///

27 ///

28 ///

WHEREFORE, Applicant prays that the clerk of the Court issue a Commission to take the Deposition of GEORGER S. TIBSHERANY, dba GEORGE S. TIBSHERANY INCORPORATED, in the State of Arizona for a Nevada District Court case, to-wit: Phoenix, Arizona, on Thursday, June 22, 2006 at 9:00 a.m.

Respectfully submitted this 1st day of May, 2006.

QUON BRUCE CHRISTENSEN

By: Nancy Quon
NANCY QUON, ESQ.
Nevada Bar No. 6099
JASON W. BRUCE, ESQ.
Nevada Bar No. 6916
JAMES R. CHRISTENSEN, ESQ.
Nevada Bar No. 3861
2330 Paseo Del Prado, Suite C-101
Las Vegas, Nevada 89102
(702) 942-1600

MARK A. KULLA, ESQ.
Nevada Bar No. 3987
SPILOTRO & KULLA
626 South Third Street
Las Vegas Nevada 89101
(702) 385-4994

ECKLEY M. KEACH, ESQ.
Nevada Bar No. 1194
ECKLEY M. KEACH, CHTD.
520 South Fourth Street
Las Vegas, Nevada 89101
(702) 384-5563
Attorneys for Plaintiff

1 NOTC
2 MARK A. KULLA, ESQ.
3 NV Bar No. 3987
4 SPILOTRO & KULLA
5 626 South Third Street
6 Las Vegas Nevada 89101
7 (702) 385-4994
8
9 NANCY QUON, ESQ.
10 Nevada Bar No. 6099
11 JASON W. BRUCE, ESQ.
12 Nevada Bar No. 6916
13 JAMES R. CHRISTENSEN, ESQ.
14 Nevada Bar No. 3861
15 QUON BRUCE CHRISTENSEN LAW FIRM
16 2330 Paseo Del Prado, Suite C-101
17 Las Vegas, NV 89102
18 (702) 942-1600
19
20 ECKLEY M. KEACH, ESQ.
21 Nevada Bar No. 1194
22 ECKLEY M. KEACH, CHTD.
23 520 South Fourth Street
24 Las Vegas, Nevada 89101
25 (702) 384-5563
26 Attorneys for Plaintiff

14 DISTRICT COURT

15 COUNTY OF CLARK, STATE OF NEVADA

17 VISTAÑA CONDOMINIUM OWNERS
18 ASSOCIATION, INC., a Nevada non-profit
19 corporation;

19 Plaintiff,

20 vs.

21 RHODES RANCH LIMITED PARTNERSHIP,
22 a Nevada Limited Partnership, RHODES DESIGN
23 AND DEVELOPMENT CORPORATION, a
24 Nevada Corporation, SAGEBRUSH
25 ENTERPRISES, INC., a Nevada Corporation,
26 RHODES RANCH LLC, a Nevada Limited
27 Liability Company; RHODES RANCH GENERAL
28 PARTNERSHIP; a Nevada general partnership;
RHODES HOMES, a Nevada Corporation;
JAMES A. BEVAN, an individual; MOE
INDIVIDUALS 1-100, ROE BUSINESS
ENTITIES 1-100, and GOE GOVERNMENTAL
ENTITIES 1-100, inclusive,

Defendants.

FILED

May 1 9 17 AM '06

Shirley A. Rungius
CLERK

Case No. A498921
Dept. No. XIX

COMMISSION TO TAKE
DEPOSITION OUTSIDE
THE STATE OF NEVADA,

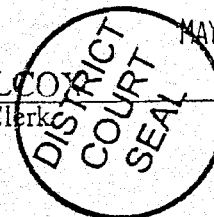
1 TO: COASH & COASH, or any Notary Public of the State of Arizona

2 YOU ARE HEREBY COMMISSIONED AND FULLY AUTHORIZED to take the
3 deposition of GEORGE S. TIBSHERANY, dba GEORGE S. TIBSHERANY
4 INCORPORATED, in accordance with the Rules of Civil Procedure of the State of Nevada, at
5 the offices of Coash & Coash, 1802 N. 7th, Phoenix, Arizona, (602)258-1440 on the 22nd day
6 of June, 2006, at the hour of 9:00 a.m., and on succeeding days until concluded, or at such
7 other time and places as may be mutually agreed upon by counsel for the respective parties
8 hereto.

9 Dated this 1 day of May, 2006.

10 CLERK OF THE COURT

11
12 By: PEGGY WILCOX
13 Deputy Clerk



14 Issued at the Request of:

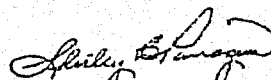
15 QUON BRUCE CHRISTENSEN

16
17 By: 

18 NANCY QUON, ESQ.
19 Nevada Bar No. 6099
20 JASON W. BRUCE, ESQ.
21 Nevada Bar No. 6916
22 JAMES R. CHRISTENSEN, ESQ.
23 Nevada Bar No. 3861
24 2330 Paseo Del Prado, Suite C-101
25 Las Vegas, Nevada 89102
26 (702) 942-1600
27 Attorneys for Plaintiff

28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

2006 MAY -1 A 9:18


CLERK

ORIGINAL

1 NOTC
2 MARK A. KULLA, ESQ.
3 NV Bar No. 3987
4 SPILOTRO & KULLA
5 626 South Third Street
6 Las Vegas Nevada 89101
7 (702) 385-4994

8 NANCY QUON, ESQ.
9 Nevada Bar No. 6099
10 JASON W. BRUCE, ESQ.
11 Nevada Bar No. 6916
12 JAMES R. CHRISTENSEN, ESQ.
13 Nevada Bar No. 3861
14 QUON BRUCE CHRISTENSEN LAW FIRM
15 2330 Paseo Del Prado, Suite C-101
16 Las Vegas, NV 89102
17 (702) 942-1600

18 ECKLEY M. KEACH, ESQ.
19 Nevada Bar No. 1194
20 ECKLEY M. KEACH, CHTD.
21 520 South Fourth Street
22 Las Vegas, Nevada 89101
23 (702) 384-5563
24 Attorneys for Plaintiff

DISTRICT COURT

COUNTY OF CLARK, STATE OF NEVADA

25 VISTAÑA CONDOMINIUM OWNERS
26 ASSOCIATION, INC., a Nevada non-profit
27 corporation;

28 Plaintiff,

vs.

29 RHODES RANCH LIMITED PARTNERSHIP,
30 a Nevada Limited Partnership, RHODES DESIGN
31 AND DEVELOPMENT CORPORATION, a
32 Nevada Corporation, SAGEBRUSH
33 ENTERPRISES, INC., a Nevada Corporation,
34 RHODES RANCH LLC, a Nevada Limited
35 Liability Company; RHODES RANCH GENERAL
36 PARTNERSHIP; a Nevada general partnership;
37 RHODES HOMES, a Nevada Corporation;
38 JAMES A. BEVAN, an individual; MOE
39 INDIVIDUALS 1-100, ROE BUSINESS
40 ENTITIES 1-100, and GOE GOVERNMENTAL
41 ENTITIES 1-100, inclusive,

Defendants.

Case No. A498921
Dept. No. XIX

NOTICE OF TAKING
DEPOSITION OF
GEORGE S. TIBSHERANY,
dba GEORGE S. TIBSHERANY

1 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

2 PLEASE TAKE NOTICE that on Thursday, June 22, 2006, at 9:00 a.m., at the offices
3 of Coash & Coash, 1802 N. 7th, Phoenix, Arizona, (602)258-1440, Plaintiff, by and through its
4 counsel of record, QUON BRUCE CHRISTENSEN, pursuant to Rule 30 of the Nevada Rules
5 of Civil Procedure, will take the deposition of GEORGE S. TIBSHERANY, dba GEORGE S.
6 TIBSHERANY.

7 Oral examination will be taken pursuant to Nevada Rule of Civil Procedure 30, before a
8 Notary Public, or before some other officer authorized by law to administer oaths and it will
9 continue from day to day until completed. You are invited to attend and cross-examine.

10 Respectfully submitted this 1st day of May, 2006.

11 QUON BRUCE CHRISTENSEN

12
13 By: Nancy Quon
14 NANCY QUON, ESQ.
Nevada Bar No. 6099
JASON W. BRUCE, ESQ.
15 Nevada Bar No. 6916
JAMES R. CHRISTENSEN, ESQ.
16 Nevada Bar No. 3861
2330 Paseo Del Prado, Suite C-101
17 Las Vegas, Nevada 89102
(702) 942-1600

18 MARK A. KULLA, ESQ.
19 Nevada Bar No. 3987
SPILOTRO & KULLA
20 626 South Third Street
Las Vegas Nevada 89101
21 (702) 385-4994

22 ECKLEY M. KEACH, ESQ.
Nevada Bar No. 1194
23 ECKLEY M. KEACH, CHTD.
520 South Fourth Street
24 Las Vegas, Nevada 89101
(702) 384-5563
25 *Attorneys for Plaintiff*

MICHAEL K. JEANES
Clerk of the Superior Court

By LUANN RADERSTORF, Deputy
Date 01/06/2006 Time 11:53 AM
Description Qty Amount
CASE# TX2006-050007
TAX CASE FEE 001 230.00
TOTAL AMOUNT 230.00
Receipt# 00007585512

1 BANCROFT SUSA & GALLOWAY
A Professional Corporation
2 Michael G. Galloway (011210)
James M. Susa (012380)
3 4713 E. Camp Lowell Drive
Tucson, Arizona 85712
4 Telephone: (520) 721-2250

5 Attorneys for Sedora Holdings, LLC
6

7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
8 IN THE ARIZONA TAX COURT

9 SEDORA HOLDINGS, LLC, a
10 Delaware limited liability company,

11 Plaintiff,

12 v.

13 MOHAVE COUNTY, a political
subdivision of the State of Arizona,
14 ARIZONA DEPARTMENT OF
REVENUE, an agency of the State of
15 Arizona,

16 Defendants.

No. TX2006-050007
COMPLAINT AND NOTICE OF PROPERTY
TAX APPEAL

Title 42

(Property Tax Classification and Valuation
Appeal)

17 Pursuant to A.R.S. § 42-16203, the Plaintiff alleges as follows:

18 1. SEDORA HOLDINGS, LLC ("SEDORA") is a Delaware limited liability
19 company authorized to do business in Arizona which owns real property in the State of Arizona
20 (the "Property"). The Property that is the subject of this Complaint consists of 10 parcels, with at
21 least one identified as parcel no. 313-20-025. The Property was the subject of an administrative
22 appeal before the Arizona State Board of Equalization ("SBOE"), Case No. 06085M-08-05. The
23 SBOE issued its decision dated December 1, 2005.

24 2. The Defendant, Mohave County (the "County"), is a political subdivision of the
25 State of Arizona.
26

1 3. The Defendant, Arizona Department of Revenue, is an agency of the State of
2 Arizona.

3 4. The Property was valued by the Mohave County Assessor for tax year 2006 in
4 excess of the proper and appropriate full cash value and limited value, and in contravention of the
5 limitations for increase in limited value mandated by A.R.S. § 42-13301.

6 5. The full cash value assigned to the Property for tax year 2006 by Mohave County
7 Assessor of \$548,389 is excessive and erroneous. By proper application of the statutory
8 requirements for the determination of full cash value, the value for the Property for property tax
9 year 2006 should be reduced to a value of no greater than \$500.

10 6. The Assessor's determination regarding the 2006 full cash value and limited value
11 of the Property is erroneous and excessive for various reasons, including, but not limited to:

12 a. The County valued and assessed the Property in excess of its fair market
13 value in violation of A.R.S. § 42-11001.5. The County has failed to consider the agricultural
14 usage of the Property and classify and value it according to the mandate of A.R.S. § 42-12151 et
15 seq. and A.R.S. § 42-13101 et seq.

16 b. The County failed to properly apply standard methods and techniques in
17 valuing the Property as required by A.R.S. § 42-11001.5.

18 c. The County failed to value and assess the Property equitably with
19 comparable properties. The Property has been valued in excess of similar properties.

20 7. All property taxes levied and assessed against the Property for the 2006 property
21 tax year have been or will be paid involuntarily or under protest and prior to the date such taxes
22 became or become delinquent in accordance with the provisions of A.R.S. § 42-16210.

23 WHEREFORE, Sedora respectfully demands judgment as follows:

24 A. That the 2006 full cash value of the Property is excessive and should be reduced to
25 no greater than \$500;

26 B. That, upon the Court's reduction of the Property's full cash and limited values, the

1 County be directed to return to Sedora any and all excess property taxes paid by Sedora with
2 interest thereon at the maximum legal rate from the earliest date until paid in full;

3 C. That the Court award Sedora its attorneys' fees, costs and expenses pursuant to
4 A.R.S. §§ 12-341 and 348; and

5 D. That the Court grant such other relief as it may deem just and proper.

6 DATED this 3RD day of JANUARY, 2006.

7 BANCROFT SUSA & GALLOWAY

8
9 By: James M. Susa
Michael G. Galloway

10 James M. Susa
11 Attorneys for Sedora Holdings, LLC
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Michael K. Jeanes, Clerk of Court
*** Electronically Filed ***
11/01/2006 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2006-050007

10/31/2006

HON. THOMAS DUNEVANT, III

CLERK OF THE COURT
C.I. Miller
Deputy

SEDORA HOLDINGS LLC

JAMES M SUSA

v.

MOHAVE COUNTY, et al.

DOLORES H MILKIE

JUDGMENT SIGNED - PROPERTY TAX

Pursuant to stipulation; and good cause appearing,

IT IS ORDERED approving and settling formal written Judgment signed by the court on October 30, 2006 and filed (entered) by the clerk on October 31, 2006.

Let the record reflect that the original Judgment is attached to this minute entry for copying and mailing to the County Board of Supervisors.

CC: MOHAVE COUNTY BOARD OF SUPERVISORS

1 BANCROFT SUSA & GALLOWAY
A Professional Corporation
2 Michael G. Galloway (011210)
James M. Susa (012380)
3 4713 E. Camp Lowell Drive
Tucson, Arizona 85712
4 Telephone: (520) 721-2250

5 Attorneys for Sedora Holdings, LLC
6

FILED
10/31/06 9:45am.
MICHAEL K. JEANES, Clerk
By C. J. Miller
Deputy

7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
8 IN THE ARIZONA TAX COURT
9

10 SEDORA HOLDINGS, LLC, a
Delaware limited liability company,

11 Plaintiff,

12 v.

13 MOHAVE COUNTY, a political
subdivision of the State of Arizona,

14 Defendant.
15

No. TX2006-050007

STIPULATED JUDGMENT

16 The parties having stipulated to the entry of judgment and good cause appearing,

17 IT IS ORDERED, ADJUDGED AND DECREED THAT:

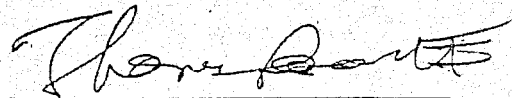
18 1. The 2006 full cash value and limited property values of the following parcels
19 located in Mohave County, Arizona shall be reduced to:

20 <u>Parcel No.</u>	<u>Full Cash & Limited Property Value</u>
21 313-20-025	\$69
22 313-01-005	\$191
23 313-01-035	\$11,372
24 313-02-008	\$163
25 313-02-021	\$1,298
26 313-02-023	\$2,587

1 313-02-024 \$1,296
2 313-02-022 \$15,564
3 310-17-004 \$200
4 354-29-011 \$27

5 2. Each party shall bear its own costs and attorney fees, if any.

6 DONE IN OPEN COURT ON October 30, 2006.

7
8 

9
10 Honorable Thomas Dunevant, III
11 Judge of the Arizona Tax Court
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MICHAEL K. JEANES
Clerk of the Superior Court

By LUANN RADERSTORF, Deputy
Date 01/06/2006 Time 11:49 AM
Description Qty Amount
CASE# TX2006-050006
TAX CASE FEE 001 230.00
TOTAL AMOUNT 230.00
Receipt# 00007585488

1 BANCROFT SUSA & GALLOWAY
A Professional Corporation
2 Michael G. Galloway (011210)
James M. Susa (012380)
3 4713 E. Camp Lowell Drive
Tucson, Arizona 85712
4 Telephone: (520) 721-2250

5 Attorneys for Sedora Holdings, LLC
6
7

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN THE ARIZONA TAX COURT**

10 **SEDORA HOLDINGS, LLC, a**
Delaware limited liability company,

11 **Plaintiff,**

12 **v.**

13 **MOHAVE COUNTY, a political**
subdivision of the State of Arizona,
14 **ARIZONA DEPARTMENT OF**
15 **REVENUE, an agency of the State of**
Arizona,

16 **Defendants.**

No. TX2006-050006

**COMPLAINT AND NOTICE OF PROPERTY
TAX APPEAL**

Title 42

**(Property Tax Classification and Valuation
Appeal)**

17 Pursuant to A.R.S. § 42-16203, the Plaintiff alleges as follows:

18 1. SEDORA HOLDINGS, LLC ("SEDORA") is a Delaware limited liability
19 company authorized to do business in Arizona which owns real property in the State of Arizona
20 (the "Property"). The Property that is the subject of this Complaint consists of 25 parcels, with at
21 least one identified as parcel no. 337-21-002. The Property was the subject of an administrative
22 appeal before the Arizona State Board of Equalization ("SBOE"), Case No. 06087M-08-05. The
23 SBOE issued its decision dated November 25, 2005.

24 2. The Defendant, Mohave County (the "County"), is a political subdivision of the
25 State of Arizona.
26

1 3. The Defendant, Arizona Department of Revenue, is an agency of the State of
2 Arizona.

3 4. The Property was valued by the Mohave County Assessor for tax year 2006 in
4 excess of the proper and appropriate full cash value and limited value, and in contravention of the
5 limitations for increase in limited value mandated by A.R.S. § 42-13301.

6 5. The full cash value assigned to the Property for tax year 2006 by Mohave County
7 Assessor of \$814,884 is excessive and erroneous. By proper application of the statutory
8 requirements for the determination of full cash value, the value for the Property for property tax
9 year 2006 should be reduced to a value of no greater than \$500.

10 6. The Assessor's determination regarding the 2006 full cash value and limited value
11 of the Property is erroneous and excessive for various reasons, including, but not limited to:

12 a. The County valued and assessed the Property in excess of its fair market
13 value in violation of A.R.S. § 42-11001.5. The County has failed to consider the agricultural
14 usage of the Property and classify and value it according to the mandate of A.R.S. § 42-12151 et
15 seq. and A.R.S. § 42-13101 et seq.

16 b. The County failed to properly apply standard methods and techniques in
17 valuing the Property as required by A.R.S. § 42-11001.5.

18 c. The County failed to value and assess the Property equitably with
19 comparable properties. The Property has been valued in excess of similar properties.

20 7. All property taxes levied and assessed against the Property for the 2006 property
21 tax year have been or will be paid involuntarily or under protest and prior to the date such taxes
22 became or become delinquent in accordance with the provisions of A.R.S. § 42-16210.

23 WHEREFORE, Sedora respectfully demands judgment as follows:

24 A. That the 2006 full cash value of the Property is excessive and should be reduced to
25 no greater than \$500;

26 B. That, upon the Court's reduction of the Property's full cash and limited values, the

1 County be directed to return to Sedora any and all excess property taxes paid by Sedora with
2 interest thereon at the maximum legal rate from the earliest date until paid in full;

3 C. That the Court award Sedora its attorneys' fees, costs and expenses pursuant to
4 A.R.S. §§ 12-341 and 348; and

5 D. That the Court grant such other relief as it may deem just and proper.

6 DATED this 3RD day of JANUARY, 2006.

7 BANCROFT SUSA & GALLOWAY

8
9 By: James M. Susa
Michael G. Galloway

10 James M. Susa
11 Attorneys for Sedora Holdings, LLC
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

FILED

12-19-2006 2:27 p.m.
MICHAEL K. JEANES, Clerk

By S. Brown
S. Brown, Deputy

1 BANCROFT SUSA & GALLOWAY
A Professional Corporation
2 Michael G. Galloway (011210)
James M. Susa (012380)
3 4713 E. Camp Lowell Drive
Tucson, Arizona 85712
4 Telephone: (520) 721-2250

5 Attorneys for Sedora Holdings, LLC
6

7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
8 IN THE ARIZONA TAX COURT
9

10 SEDORA HOLDINGS, LLC, a
Delaware limited liability company,

11 Plaintiff,

12 v.

13 MOHAVE COUNTY, a political
subdivision of the State of Arizona,

14 Defendants.
15

No. TX2006-050006

~~PROPOSED~~ FORM OF ORDER FOR
DISMISSAL

Assigned to the Honorable Thomas
Dunevant III

16 Pursuant to a Stipulation for Dismissal and good cause appearing therefore,

17 IT IS HEREBY ORDERED that the above-captioned matter is dismissed with prejudice
18 each of the parties to bear their own costs and attorneys' fees incurred herein.

19 DONE IN OPEN COURT this 15th day of December, 2006.

20
21 

22 HONORABLE THOMAS DUNEVANT III
23 JUDGE, ARIZONA TAX COURT
24
25
26

MICHAEL K. JEANES
Clerk of the Superior Court

By LUANN RADERSTORF, Deputy
Date 01/06/2006 Time 11:45 AM
Description Qty Amount
CASE# TX2006-050005
TAX CASE FEE 001 230.00
TOTAL AMOUNT 230.00
Receipt# 00007585453

1 BANCROFT SUSA & GALLOWAY
A Professional Corporation
2 Michael G. Galloway (011210)
James M. Susa (012380)
3 4713 E. Camp Lowell Drive
Tucson, Arizona 85712
4 Telephone: (520) 721-2250

5 Attorneys for Sedora Holdings, LLC
6

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN THE ARIZONA TAX COURT**
9

10 **SEDORA HOLDINGS, LLC, a**
Delaware limited liability company,

11 **Plaintiff,**

12 **v.**

13 **MOHAVE COUNTY, a political**
subdivision of the State of Arizona,
14 **ARIZONA DEPARTMENT OF**
REVENUE, an agency of the State of
15 **Arizona,**

16 **Defendants.**

No. TX2006-050005

**COMPLAINT AND NOTICE OF PROPERTY
TAX APPEAL**

Title 42

**(Property Tax Classification and Valuation
Appeal)**

17 Pursuant to A.R.S. § 42-16203, the Plaintiff alleges as follows:

18 1. SEDORA HOLDINGS, LLC ("SEDORA") is a Delaware limited liability
19 company authorized to do business in Arizona which owns real property in the State of Arizona
20 (the "Property"). The Property that is the subject of this Complaint consists of 3 parcels, with at
21 least one identified as parcel no. 333-11-018. The Property was the subject of an administrative
22 appeal before the Arizona State Board of Equalization ("SBOE"), Case No. 06086M-08-05. The
23 SBOE issued its decision dated December 1, 2005.

24 2. The Defendant, Mohave County (the "County"), is a political subdivision of the
25 State of Arizona.
26

1 3. The Defendant, Arizona Department of Revenue, is an agency of the State of
2 Arizona.

3 4. The Property was valued by the Mohave County Assessor for tax year 2006 in
4 excess of the proper and appropriate full cash value and limited value, and in contravention of the
5 limitations for increase in limited value mandated by A.R.S. § 42-13301.

6 5. The full cash value assigned to the Property for tax year 2006 by Mohave County
7 Assessor of \$92,804 is excessive and erroneous. By proper application of the statutory
8 requirements for the determination of full cash value, the value for the Property for property tax
9 year 2006 should be reduced to a value of no greater than \$500.

10 6. The Assessor's determination regarding the 2006 full cash value and limited value
11 of the Property is erroneous and excessive for various reasons, including, but not limited to:

12 a. The County valued and assessed the Property in excess of its fair market
13 value in violation of A.R.S. § 42-11001.5. The County has failed to consider the agricultural
14 usage of the Property and classify and value it according to the mandate of A.R.S. § 42-12151 et
15 seq. and A.R.S. § 42-13101 et seq.

16 b. The County failed to properly apply standard methods and techniques in
17 valuing the Property as required by A.R.S. § 42-11001.5.

18 c. The County failed to value and assess the Property equitably with
19 comparable properties. The Property has been valued in excess of similar properties.

20 7. All property taxes levied and assessed against the Property for the 2006 property
21 tax year have been or will be paid involuntarily or under protest and prior to the date such taxes
22 became or become delinquent in accordance with the provisions of A.R.S. § 42-16210.

23 WHEREFORE, Sedora respectfully demands judgment as follows:

24 A. That the 2006 full cash value of the Property is excessive and should be reduced to
25 no greater than \$500;

26 B. That, upon the Court's reduction of the Property's full cash and limited values, the

1 County be directed to return to Sedora any and all excess property taxes paid by Sedora with
2 interest thereon at the maximum legal rate from the earliest date until paid in full;

3 C. That the Court award Sedora its attorneys' fees, costs and expenses pursuant to
4 A.R.S. §§ 12-341 and 348; and

5 D. That the Court grant such other relief as it may deem just and proper.

6 DATED this 3RD day of JANUARY, 2006.

7 BANCROFT SUSA & GALLOWAY

8
9 By: James M. Susa
10 Michael G. Galloway
11 James M. Susa
12 Attorneys for Sedora Holdings, LLC
13
14
15
16
17
18
19
20
21
22
23
24
25
26

2006
5/16/06 FILED
MICHAEL K. JEANES, Clerk
By J. Slaughter
Deputy

1 Terry Goddard
2 Attorney General
3 Firm Bar No. 14000
4 Frank Boucek, III- 016128
5 Kenneth J. Love - 010986
6 Assistant Attorneys General
7 1275 West Washington Street
8 Phoenix, Arizona 85007-2997
9 Telephone: (602) 542-1719
10 Tax @azag.gov
11 Attorneys for Defendants

9 THE SUPERIOR COURT OF THE STATE OF ARIZONA
10 IN THE ARIZONA TAX COURT

11
12 SEDORA HOLDINGS, LLC, a Delaware
13 limited liability company,

14 Plaintiff,

15 vs.

16 MOHAVE COUNTY, a political
17 subdivision of the State of Arizona,
18 ARIZONA DEPARTMENT OF
19 REVENUE, a agency of the State of
20 Arizona,

21 Defendants.

No. TX2006-050005

ORDER OF DISMISSAL

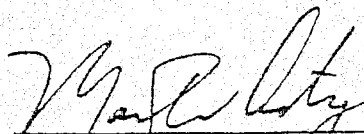
(Property Tax Classification
and Valuation Appeal)

(Assigned to the Honorable Mark W.
Armstrong)

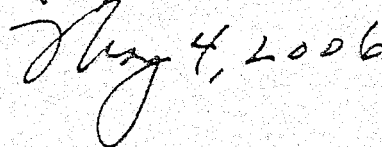
22 Based on the Stipulation of the parties and good cause appearing,

23 IT IS THEREFORE ORDERED that the Arizona Department of Revenue is
24 dismissed from this action with prejudice, with the Plaintiff and the Arizona Department
25
26

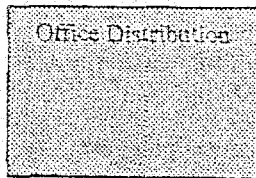
of Revenue bearing their own attorneys' fees and costs.



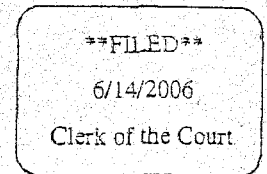
The Honorable Mark W. Armstrong



470560



SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY



6/10/2006

CIVIL COURT ADMINISTRATION
ARIZONA TAX COURT

Ct. Admin
Deputy

CASE NUMBER: TX2006-050005

Sedora Holdings Llc

V.

Arizona State Department of Revenue

The Judge assigned to this action is the Honorable Mark Armstrong

150 DAY ORDER

This action was filed more than 150 days ago. If there is any conflict between this order and any order from the assigned judge, the assigned judge's order governs. This order provides notice of requirements, pursuant to Rule 38.1, Arizona Rules of Civil Procedure. Rule 38.1 applies to all civil actions, including those subject to arbitration.

IT IS HEREBY ORDERED:

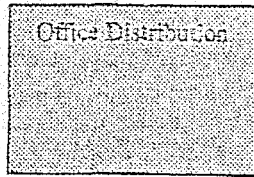
Rule 38.1 of the Arizona Rules of Civil Procedure will be strictly enforced. The parties shall file and serve on court and counsel the following documents:

1. A motion to Set and Certificate of Readiness or an Appeal from Arbitration and Motion to Set on or before 10/3/2006. (The motion shall include an estimate of the length of trial) If Rule 38.1 is not complied with, the case will be placed on Inactive Calendar on the date shown above and it will be dismissed pursuant to Rule 38.1, without further notice, on or after 12/4/2006. *

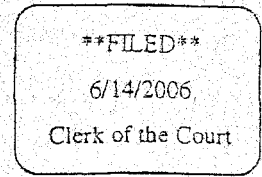
2. All parties' specific objections to witnesses and exhibits listed by other parties must be submitted with or stated in the Joint Pretrial Statement. Reserving all objections to witnesses or exhibits until time of trial will not be permitted.

LATE DISCOVERY. A Motion to set and Certificate of Readiness certifies that the parties have completed or will have had a reasonable opportunity to complete discovery within 60 days after the motion is filed. [Local Rule 3.4 and Rule 38.1 (f) Arizona Rules of Civil Procedure] Discovery should be completed in accordance with the Rule.

IF THIS IS AN ARBITRATION CASE. If this case is subject to mandatory arbitration, Rule 74 (b) of the Arizona Rules of Civil Procedure establishes the time for beginning the arbitration hearing. In light of the deadlines established by Rule 38.1 (d) of the Arizona Rules of Civil Procedure, counsel should be sure that arbitrators are timely appointed and that arbitrators complete the arbitration process within the time provided under Rule 38.1 (d) for motions to set. As Rule 76(a) of the Arizona Rules of Civil Procedure provides, an Appeal from Arbitration and Motion to Set for Trial serves in place of a Motion to Set and Certificate of Readiness under Rule 38.1 (a), Arizona Rules of Civil Procedure.



SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY



6/10/2006

CIVIL COURT ADMINISTRATION
ARIZONA TAX COURT

Ct. Admin
Deputy

CASE NUMBER: TX2006-050005

Sedora Holdings Llc

V.

Arizona State Department of Revenue

EXTENSIONS OF TIME TO SERVE PROCESS. If there has been an extension of time to serve the summons and complaint, (a) Rule 38.1 still applies and (b) some parties and counsel may not receive a copy of this order. Plaintiff should send copies to each of them and retain a copy of the transmittal letter.

ALTERNATIVE DISPUTE RESOLUTION. Pursuant to Rule 16 (g), Ariz.R.Civ.P., counsel for the parties, or the parties if not represented by counsel, shall confer regarding the feasibility of resolving the parties' dispute through alternative dispute resolution methods such as mediation or arbitration with a mediator or arbitrator agreed to by the parties. Counsel shall discuss with their clients the resolution of the dispute through an alternative dispute resolution method prior to the conference with opposing counsel.

*RELIEF FROM RULE 38.1 DEADLINES; CONTINUANCES ON INACTIVE CALENDAR. The rules require a Motion to Set within nine months after the action is filed. Discovery is to be completed about two months later (see Late Discovery above). A motion to vacate or abate this order will not change the deadlines. A premature Motion to Set violates Rule 11, A.R.P.C.

For good cause, the assigned judge may extend time for dismissal or continue the action on Inactive Calendar to an appropriate date. If an arbitration hearing has been held, or is set in the near future, the date of that hearing should be included in any motion to extend Rule 38.1 deadlines or to continue on Inactive Calendar. Stipulations to continue and delays for settlement negotiations are not good cause. Except in extraordinary cases, the court will not grant trial continuances based on late discovery.

Superior Court of Maricopa County - integrated Court Information System

Endorsee Party Listing

Case Number: TX2006-050005

Party Name	Attorney Name	
Sedora Holdings Llc	James M Susa	Bar ID: 012380

MICHAEL K. JEANES
Clerk of the Superior Court

By ANGELA NORTHROP, Deputy
Date 11/22/2006 Time 09:53 AM
Description Qty Amount
CASE# TX2006-000246
TAX CASE FEE 001 230.00
TOTAL AMOUNT 230.00
Receipt# 00008411237

1 BANCROFT SUSA & GALLOWAY
A Professional Corporation
2 Michael G. Galloway (011210)
James M. Susa (012380)
3 4713 E. Camp Lowell Drive
Tucson, Arizona 85712
4 Telephone: (520) 721-2250

5 Attorneys for Sedora Holdings, LLC

7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
8
9 IN THE ARIZONA TAX COURT

10 SEDORA HOLDINGS, LLC, a Nevada
limited liability company,

11 Plaintiff,

12 v.

13 MOHAVE COUNTY, a political
subdivision of the State of Arizona,

14 Defendant.

No. TX2006-000246

COMPLAINT AND NOTICE OF PROPERTY
TAX APPEAL

Title 42

(Property Tax Classification and Valuation
Appeal)

16 Pursuant to A.R.S. § 42-16201, the Plaintiff alleges as follows:

17 1. SEDORA HOLDINGS, LLC ("SEDORA") is a Nevada limited liability company
18 authorized to do business in Arizona which owns real property in the State of Arizona (the
19 "Property"). The Property is the subject of this Complaint and is identified as parcel nos. 333-11-
20 018, 333-11-024 and 333-11-025.

21 2. The Defendant, Mohave County (the "County"), is a political subdivision of the
22 State of Arizona.

23 3. The Property was valued by the Mohave County Assessor for tax year 2007 in
24 excess of the proper and appropriate full cash value and limited value, and in contravention of the
25 limitations for increase in limited value mandated by A.R.S. § 42-13301.

26 4. The full cash value assigned to the Property for tax year 2007 by Mohave County

1 Assessor of \$185,608 is excessive and erroneous. By proper application of the statutory
2 requirements for the determination of full cash value, the value for the Property for property tax
3 year 2007 should be reduced to a value of no greater than \$1,000.

4 5. The Assessor's determination regarding the 2007 full cash value and limited value
5 of the Property is erroneous and excessive for various reasons, including, but not limited to:

6 a. The County valued and assessed the Property in excess of its fair market
7 value in violation of A.R.S. § 42-11001.5. The County has failed to consider the agricultural
8 usage of the Property.

9 b. The County failed to properly apply standard methods and techniques in
10 valuing the Property as required by A.R.S. § 42-11001.5.

11 c. The County failed to value and assess the Property equitably with
12 comparable properties. The Property has been valued in excess of similar properties.

13 6. All property taxes levied and assessed against the Property for the 2007 property
14 tax year will be paid involuntarily or under protest and prior to the date such taxes became or
15 become delinquent in accordance with the provisions of A.R.S. § 42-16210.

16 WHEREFORE, Sedora respectfully demands judgment as follows:

17 A. That the 2007 full cash value of the Property is excessive and should be reduced to
18 no greater than \$1,000;

19 B. That, upon the Court's reduction of the Property's full cash and limited values, the
20 County be directed to return to Sedora any and all excess property taxes paid by Sedora with
21 interest thereon at the maximum legal rate from the earliest date until paid in full;

22 C. That the Court award Sedora its attorneys' fees, costs and expenses pursuant to
23 A.R.S. §§ 12-341 and 348; and

24 D. That the Court grant such other relief as it may deem just and proper.

25 ::::

26 ::::

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DATED this 21st day of NOVEMBER, 2006.

BANCROFT SUSA & GALLOWAY

By: James M. Susa
Michael G. Galloway
James M. Susa
Attorneys for Sedora Holdings, LLC

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2006-000476-001 DT
CV2006-011146

07/25/2006

HON. MARGARET H. DOWNIE

CLERK OF THE COURT
A. Gonzalez
Deputy

FILED: 07/27/2006

AMERICAN LAND MANAGEMENT L L C
SEDORA HOLDINGS L L C

ROBERT L GREER

v.

ARIZONA STATE DEPARTMENT OF WATER
RESOURCES (001)
H R GUENTHER (001)
STATE OF ARIZONA (001)
RANCH AT TEMPLE BAR L L C (001)
JOSHUA TREE L L C (001)
ARIZONA ACREAGE L L C (001)
ARIZONA LAND DEVELOPMENT INC (001)
SILVER BASIN INC (001)
CACTUS & STUFF L L C (001)
FLANNERY & ALLEN L L C (001)
GATEWAY LOTS L L C (001)
SMITH RANCH COMMERCIAL L L C (001)

DOCKET-CIVIL-CCC
FILE ROOM-CSC
REMAND DESK-LCA-CCC

COURT ORDERS ENTERED

In reviewing the "Special Action Complaint for Declaratory Relief, or, in the Alternative, for Judicial Review of Administrative Decision," it is apparent that plaintiffs seek declaratory relief, as well as special action relief. (*See, e.g.* ¶¶ 1, 14, 15, 17, 54 – 60).

IT IS ORDERED that the Clerk of Court reassign a "CV" case number to this matter. Because of the hybrid nature of plaintiffs' complaint, it shall be served and prosecuted under the Rules of Civil Procedure unless the assigned judge orders otherwise.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2006-000476-001 DT
CV2006-011146

07/25/2006

IT IS FURTHER ORDERED all parties are advised that this case will bear the new number of CV2006-011146. All supplemental documents shall be filed with the Clerk of the Court under the new cause number.

IT IS FURTHER ORDERED that the File Room physically remove all the documents from the current case file and refile them under the civil case number.

IT IS FURTHER ORDERED that the docket be amended to reflect the assignment of the civil case number.

MICHAEL K. JEANES
Clerk of the Superior Court

By ANGELA WALKER, Deputy
Date 07/12/2006 Time 03:36 PM
Description Qty Amount
CASE# LC2006-000476
PLAINTIFF/APPELLANT 001 230.00
TOTAL AMOUNT 230.00
Receipt# 00008080282

BAIRD, WILLIAMS & GREER, L.L.P.
6225 NORTH 24TH STREET, SUITE 125
PHOENIX, ARIZONA 85016
TELEPHONE (602) 256-9400
FAX (602) 271-9308

Robert L. Greer (005372)

Attorneys for plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

American Land Management, L.L.C., a South
Dakota limited liability company, Sedora
Holdings, L.L.C., a Delaware limited liability
company,

Plaintiffs,

vs.

Arizona Department of Water Resources, an
agency of the State of Arizona; H.R. Guenther
in his capacity as Director of Arizona
Department of Water Resources; and the State
of Arizona,

Defendants,

and

The Ranch at Temple Bar, L.L.C., a Nevada
limited liability company; Joshua Tree,
L.L.C., a Nevada limited liability company;
Arizona Acreage, L.L.C., a Nevada limited
liability company; Arizona Land
Development, Inc., a Nevada corporation;
Silver Basin, Inc., a Nevada corporation;
Cactus & Stuff, L.L.C., a Nevada limited
liability company; Flannery & Allen, L.L.C.,
a Nevada limited liability company; Gateway
Lots, L.L.C., a Nevada limited liability
company; and Smith Ranch Commercial,
L.L.C., a Nevada limited liability company,

Real parties in interest.

Case No. LC2006-000476-001

**SPECIAL ACTION COMPLAINT FOR
DECLARATORY RELIEF, OR, IN THE
ALTERNATIVE, FOR JUDICIAL REVIEW
OF ADMINISTRATIVE DECISION**

1 Plaintiffs, American Land Management, L.L.C. ("ALM") and Sedora Holdings, Ltd.
2 ("Sedora") allege:

3 **SUMMARY OF CLAIMS**

4 1. Arizona Administrative Code R12-15-716(D) adopted by the Arizona Department
5 of Water Resources ("ADWR") has never been interpreted nor construed by any court. This
6 action seeks a judicial interpretation of that rule which addresses a means to determine the priority
7 of competing applications for an Analysis of Adequate Water Supply.

8 2. ADWR arbitrarily failed to recognize ALM's application for analysis of adequate
9 water supply as "complete and correct" as used in R12-15-716(D), even though by ADWR's own
10 correspondence and by virtue of A.R.S. §41-1074(C), ALM's application was "complete and
11 correct" and entitled to priority over a competing application for The Ranch at White Hills ("the
12 Ranch"), filed nearly three months after Plaintiffs' application.

13 3. ADWR's failure to assign ALM's application priority is contrary to law, arbitrary
14 and capricious, an abuse of discretion, and violates ALM's rights to the beneficial use of
15 groundwater on its property.

16 4. ADWR harmed ALM by permitting and encouraging the use of ALM's proprietary
17 and costly studies and data to support the Ranch Application. It was on the basis of ALM's
18 proprietary information that ADWR approved the Ranch Application. This type of preferential
19 treatment violates the concept of fundamental fairness and due process. ADWR's use of ALM's
20 data also violates its property rights.

21 5. ADWR was aware that ALM's Application and the Ranch Application were for the
22 same limited water supply in the Detrital Valley Basin and a determination against ALM would
23 render its land unsuitable for its intended purpose. Nonetheless, ADWR denied ALM the right
24 to be heard and did not provide ALM the right to question any portions of the Ranch Application.

6. ADWR failed to grant ALM a hearing to determine priority of rights to groundwater in the Detrital Valley Basin.

PARTIES

7. Plaintiff ALM is a South Dakota limited liability company and a wholly owned subsidiary of Sedora Holdings, L.L.C., a Delaware limited liability company. Sedora owns real property situated in Mohave County, the rights of which to groundwater have been improperly diminished and impaired by ADWR. ALM has an interest in the real property. ADWR's acts and omissions have caused ALM and Sedora to lose economically viable and productive use of the land.

8. The Defendant, Arizona Department of Water Resources, is an agency of the State of Arizona and, by and through its director, H.R. Guenther, is authorized generally to control and supervise the appropriation and distribution of surface water and ground water in the State of Arizona.

9. The following entities are named as Real Parties in Interest because this action will affect the water available for their planned residential housing development known as The Ranch at White Hills in Mohave County, Arizona (collectively "The Ranch"): The Ranch at Temple Bar, L.L.C., a Nevada limited liability company, Joshua Tree, L.L.C., a Nevada limited liability company, Arizona Acreage, L.L.C., a Nevada limited liability company, Arizona Land Development, Inc., a Nevada corporation, Silver Basin, Inc., a Nevada corporation, Cactus & Stuff, L.L.C., a Nevada limited liability company, Flannery & Allen, L.L.C., a Nevada limited liability company, Gateway Lots, L.L.C., a Nevada limited liability company, Smith Ranch Commercial, L.L.C., a Nevada limited liability company. All have Leonard, Susan, and Lori Mardian as principal owners, members or shareholders.

10. The defendant State of Arizona, a body politic, through its legislature authorized the creation and powers of Defendant ADWR.

JURISDICTION AND VENUE

11. This case arises under the law of the State of Arizona and presents a question within this Court's jurisdiction pursuant to A.R.S. §§12-122, 12-123, 12-1831, 12-2021 and Rule 4(b), Rules of Procedure for Special Actions.

12. Venue is proper in Maricopa County pursuant to A.R.S. §12-401 and Rule 4(b), Arizona Rules of Procedure for Special Actions.

13. Plaintiffs have no equally speedy or adequate remedy at law because 1) ADWR has refused to conduct an administrative hearing and has denied ALM standing to challenge ADWR's grant of priority to groundwater to the Ranch, 2) ADWR has no rules or regulations which permit a hearing on another applicant's priority to ALM's water rights, 3) ALM must have a determination of their rights and priority to groundwater before it further expends millions of dollars in developing the real property at issue here and, 4) damages would be astronomical and would impose an enormous economic burden upon the Defendants, which would be avoided if declaratory relief or mandamus is granted.

14. This Court has authority pursuant to the Declaratory Judgment Act, A.R.S. §12-1831 to declare that ALM's application has priority over the Ranch application, because an actual controversy exists between ALM and ADWR which relates to the ADWR's improper determination of adequate water supply for the property located in Mohave County. The Court's declaration will resolve the controversy between ALM and the defendants, as well as resolve the issue for all future competing applications throughout the state.

15. This Court has jurisdiction and authority to order ADWR to exercise its discretion to determine the ALM application's priority to groundwater in the Detrital Basin in light of this

1 Court's construction of statutory and regulatory requirements, and to rescind or suspend ADWR's
2 determination that the Ranch application has prior rights to groundwater.

3 16. In the alternative, plaintiffs request a judicial review of ADWR's administrative
4 decision. ALM has exhausted all administrative remedies and this Court has personal and subject
5 matter jurisdiction over this case under A.R.S. §§12-904, 12-905, and 45-405.

6 17. In the unlikely event that this court refuses to grant equitable or declaratory relief, and
7 after plaintiffs present a claim to the State of Arizona, plaintiffs have a claim for monetary
8 damages as a consequence of defendants' unlawful taking of property in violation of plaintiffs'
9 rights under the United States and Arizona Constitutions. This claim is not yet ripe, but is noted
10 herein that it may be preserved in the event defendants later claim that it was either untimely or
11 that defendants had no notice of it.

12 REGULATORY FRAMEWORK

13 18. A.R.S. §45-105(b) vests ADWR with the responsibility to administer all laws relating
14 to groundwater and requires it to promulgate rules to carry out the purposes of Title 45, Arizona
15 Revised Statutes.

16 19. The Arizona Administrative Procedures Act, A.R.S. §41-1001 et seq. governs the
17 procedures for promulgating rules by ADWR and contains requirements to which ADWR must
18 adhere in making rules.

19 20. A.R.S. §§41-1072 and 41-1074 require regulatory agencies of the State of Arizona,
20 including ADWR, to set time frames for administrative completeness reviews, substantive reviews
21 and for overall completion of licensing or permit procedures. In addition, agencies are required
22 to give written notice of either administrative completeness or deficiencies within a set
23 administrative completeness time frame.

1 21. A.R.S. §41-1075 permits regulatory agencies of the State of Arizona, including
2 ADWR, to make a comprehensive written request of applicants for additional information during
3 the substantive review time frame. It also gives both the state agency and the applicant flexibility
4 to agree on other submissions of additional information as part of the license or permit process
5 and to suspend or extend the substantive completeness time frame.

6 22. A.R.S. §45-108 requires developers of proposed subdivisions to submit plans for
7 water supply for the subdivision and demonstrate the adequacy of the water supply to meet the
8 needs projected by the developer to the director of ADWR. Among other things, the director is
9 required to evaluate the proposed source of water for the subdivision to determine its ability to
10 meet proposed uses for a period of years and issue a report on the plans to the state land
11 commissioner before the proposed development plat can be recorded.

12 23. In an effort to fulfill its statutory mandate under A.R.S. §45-108, ADWR has
13 promulgated regulations governing its evaluation of adequacy of water supplies for proposed
14 subdivisions, which regulations are found in A.A.C. R12-15-701 through R12-15-725. Such
15 regulations are required to be consistent with A.R.S. §41-1001 et seq.

16 24. A.A.C. R12-15-401, Table A, sets forth the licensing time frames for ADWR,
17 including number 74, which governs the issuance of a water adequacy report and which provides
18 60 days for completeness review, 60 days for substantive review and 120 days for overall time-
19 frame.

20 25. A.A.C. R12-15-716 (A) contains a comprehensive list of information to be supplied
21 by a person applying for a report on the adequacy of water supply. If that information is supplied,
22 an application is deemed "administratively complete."

23 26. A.A.C. R12-15-716(D) addresses competing applications for an analysis of adequate
24 water supply for the same water and provides for a mechanism for determining priority. The rule
25
26

1 provides that priority be given to the application which the director of ADWR first determines to
2 be "complete and correct." "Correct" is nowhere defined in either regulation or statute.

3 27. The insertion of the term "correct" in that regulation, if construed to be an additional
4 requirement for establishing priority, is not authorized by statute, is contrary to the Administrative
5 Procedures Act, and gives the director of ADWR undefined, unlimited, and unpredictable
6 discretion, which can be exercised without any opposing voice, in adjudicating priority among
7 property owners who have an interest in utilizing the groundwater in the same basin.

8 28. ADWR regulations provide no administrative remedy for landowners whose rights
9 in groundwater are subordinated to others which ADWR had determined to have priority. Nor are
10 such landowners given any opportunity to be heard.

11 **FACTUAL ALLEGATIONS**

12 29. Errol Montgomery & Associates ("Montgomery"), on behalf of ALM, submitted an
13 administratively correct application for an Analysis of Adequate Water Supply in the Detrital
14 Valley Basin for The Village at White Hills in Mohave County, Arizona on March 18, 2005 ("the
15 ALM application"). The application was based on a hydrological study which cost ALM nearly
16 \$2 million to complete. The application was administratively correct and first in time, but delayed
17 in substantive review at ADWR.

18 30. Upon request, ALM submitted supplemental hydrological information to ADWR on
19 May 10, 2005. At that time, no other applications had been filed for water in the Detrital Valley
20 Basin.

21 31. A competing application for an Analysis of Adequate Water Supply for the same
22 water in the Detrital Valley Basin was later filed on June 3, 2005, by real parties in interest, The
23 Ranch at White Hills ("the Ranch application").
24
25
26

1 32. ALM and Sedora have ownership rights and property interest in the groundwater that
2 is the subject of the competing applications.

3 33. On June 7, 2005, nearly three months after ALM filed its application, Montgomery
4 met with representatives of ADWR to discuss the ALM Application and any potential concerns
5 ADWR might have.

6 34. The next day, June 8, 2005, the Department completed its Adequacy Application
7 Review checklist for ALM, noting that the ALM Application was complete and that the
8 application had been sent previously to the Hydrology Division for review on March 23, 2005.

9 35. On May 17, 2005, the ALM Application was complete as a matter of law.

10 36. The Department further acknowledged that the application was complete and
11 administratively correct in a July 29, 2005, e-mail from the Office of Assured & Adequate Water
12 Supply to the Department's Water Resources Section Manager.

13 37. The ALM Application was complete as a matter of fact on August 9, 2005, when
14 ADWR, after nearly five months from the date the ALM Application was filed, sent a letter to
15 ALM acknowledging that its application was administratively complete but substantively
16 incorrect.

17 38. In the August 9, 2005 letter, ADWR stated the application was complete but under
18 a substantive correctness review. ALM attempted to schedule a meeting with ADWR to discuss
19 the substance of the application, but ADWR did not agree until September 2. On September 20,
20 2005, ADWR requested additional information to resolve some "hydrologic issues."

21 39. ALM submitted a work plan to the Department on December 5, 2005.

22 40. Just over two months later, on February 17, 2006, the Department issued two letters;
23 one approved ALM's work plan and the other attempted to rescind the Department's earlier
24 finding that the ALM Application was administratively complete.

1 41. In the February 17, 2006 letter, the Department further stated that it had not made a
2 priority date determination and ALM's application remained "complete but incorrect."

3 42. ADWR completed the Adequacy Application Review checklist for the Ranch
4 Application (filed on June 3, 2005) on June 21, 2005, only three weeks after its initial filing. In
5 contrast, it took over 3 months for the ALM Application review checklist to be completed.

6 43. The Hydrology Division received the Ranch Application for review on June 10, 2005
7 and Water Quality Division received it on June 21, 2005.

8 44. ADWR allowed, and in fact encouraged, the Ranch to lift data from ALM's
9 Application for use in its own application. The Ranch Application was thus supported and
10 approved on the basis of ALM's proprietary information.

11 45. ADWR's actions gave The Ranch an unfair advantage, resulting in a denial of ALM's
12 request for its full water demand requirements.

13 46. On April 11, 2006, ADWR issued an Analysis of Adequate Water Supply for The
14 Ranch at White Hills, stating that only 11 days earlier, on March 31, 2006, the application was
15 found to be complete and correct.

16 47. ADWR sent a letter to Montgomery & Associates on April 19, 2006, advising them
17 that the ALM Application must now include in its demand calculations the 7,573 acre-feet of
18 water reserved to The Ranch at White Hills.

19 48. The process ADWR used in granting approval of the Ranch Application did not
20 provide an opportunity to object, intervene or otherwise challenge the data or information
21 provided to ADWR or relied on by ADWR in the granting of the application which significantly
22 affects ALM.

23 49. ADWR's actions and procedures in approving the Ranch Application effectively
24 eliminates 7,573 acre-feet of water for use by The Villages at White Hills. This action not only
25
26

1 eliminates a substantial quantity of groundwater for use by ALM, it also requires ALM to
2 recalculate its groundwater demand to take into account that amount of existing demand.

3 50. Despite having spent a considerable sum of money to produce hydrology information
4 that did not exist prior to ALM's application, ALM must now spend significant amounts more
5 without the benefit of being first in time, first in line.

6 51. On May 11, 2006, ALM filed with the ADWR director a Request for Administrative
7 Review pursuant to A.R.S. §41-1092.09 to resolve priority rights in competing applications. On
8 June 7, 2006, the ADWR Director denied the review and refused to give plaintiffs a hearing. (See
9 Exhibit 1 attached hereto and incorporated herein by this reference.)

10 52. Under A.R.S. §45-114, the director's decision is final for the purposes of judicial
11 review.

12 53. Plaintiffs are entitled to an award of attorneys fees and costs pursuant to A.R.S. §§12-
13 348, 12-2030, and 41-1001.01 and Ariz. Rules Spec. Action 4(g).

14 **CLAIMS FOR RELIEF**

15 **Claim One** 16 **(Declaratory Judgment)**

17 54. Plaintiffs re-allege and incorporate by this reference the allegations in paragraphs 1-53
18 of the complaint.

19 55. An actual controversy exists between ALM, Sedora, ADWR and real parties in
20 interest.

21 56. According to Arizona law and ADWR's regulations, the ALM application should
22 have been given the first priority position in ADWR's determination of adequate water supply for
23 residential developments in the Detrital Valley Basin.

24 57. Instead, ADWR gave the subsequently filed Ranch Application priority and issued
25 the Ranch's Analysis of Adequate Water Supply on April 11, 2006.

58. ADWR did not issue a written notice of administrative deficiencies within the 60 days provided in the regulations, therefore ALM's application was administratively complete on the 61st day after it was filed. ALM is entitled to a determination that its application was complete and correct on May 17, 2005 and that its priority to rights in groundwater is fixed as of that date.

59. Alternatively, ALM is entitled to a declaration that its application was complete and correct as of August 9, 2005.

60. A declaratory judgment is both necessary and proper in order to a) interpret ADWR's administrative regulations as applied to ALM; b) determine the rights of ALM earlier filed application; and c) determine the obligations of ADWR to adhere to Arizona statutes and its own administrative regulations and recognize ALM's Application's priority.

WHEREFORE, plaintiffs pray that the court declare:

A. ALM's application for analysis of adequate water supply is first in time and first in right and grants ALM priority to ground water in the Detrital Valley Basin.

B. The Ranch's ground water rights in the Detrital Valley Basin are secondary or subordinate to those of ALM.

C. The use of the term "complete and correct" is A.C.C.R. 12-15-716(D), for purposes of determining priority in competing applications means the application is administered complete.

Claim Two
(Special Action - Writ of Mandamus)

61. Plaintiffs re-allege and incorporate by this reference the allegations in paragraphs 1-60 of the complaint.

1 62. In this instance, ADWR failed to follow its usual practices in determining the priority
2 of applications and applying the standards for evaluation of the applications. These actions were
3 an abuse of its discretion.

4 63. ADWR has a duty pursuant to statute (A.R.S. 41-1074(C)) and its own administrative
5 code (A.A.C. R12-15-401, Table A) to give the ALM Application a priority position and complete
6 its analysis of the ALM Application prior to the approval of the Ranch's Application. ADWR has
7 acted outside its legal authority by failing to recognize the first priority position of the ALM
8 Application.

9 64. ADWR has acted outside its legal authority and violated ALM's due process rights.
10 Specifically, ADWR arbitrarily and unfairly:

11 a) delayed response and processing of ALM's application for analysis of
12 adequate water supply,

13 b) required additional meetings, testing and studies of ALM not routinely required for
14 other applicants,

15 c) imposed a condition, not mandated or authorized by statute, that the
16 application be "correct" before assigning the application priority,

17 d) failed to determine the application to be complete and correct within 60 days as
18 required by A.A.C. R12-15-401, Table A,

19 e) refused to acknowledge the application as administratively complete and
20 correct as a matter of law at the conclusion of the 60 days,

21 f) delayed its initial response to the application for 144 days after it was first
22 submitted,

23 g) failed to follow its usual practice, i.e., after confirming that the application was
24 administratively complete on August 9, 2005, it did not "review the application and issue an
25

1 analysis of adequate water supply" as required by A.C.C. R12-15-723(D), rather, it subsequently
2 claimed the application was not "correct," and thus added an additional step to the administrative
3 process,

4 h) failed to apply the principle of "first in time, first in right" to the ALM Application,

5 i) advised the Ranch prior to filing its application that the "first in time, first in right"
6 doctrine would not be applied,

7 j) notwithstanding consistent and clear requests for such information, failed to inform
8 ALM in a timely fashion that "first in time, first in right" would not be applied to the process, thus
9 giving no notice to ALM that a competing application may be given priority,

10 k) communicated to The Ranch that its competing, though later filed, application
11 would be given priority, even though it was not first in time,

12 l) failed to incorporate or harmonize in its rules a statute (A.R.S §45-154) which gave
13 priority to surface water rights to a first in time applicant who later supplemented and corrected
14 an application, but extended no such rights to applicants who sought use of groundwater,

15 m) favored a later filed application for analysis of adequate water supply by
16 The Ranch and gave it priority to groundwater by applying less stringent standards in the
17 following particulars:

18 i) ADWR ignored The Ranch's errors in calculations for groundwater demand.
19 In the large lot adjustment The Ranch Shows 235 square feet per lot of turf resulting in an
20 increased demand of 1,225 acre feet which has not been accounted for. It results in 157 acre feet
21 of additional demand for the committed demand.

22 ii) Notwithstanding the agreement of the Colorado River Management Office
23 that all existing and proposed wells for the ALM developments were outside the Colorado River
24 accounting surface that and long-term pumping would have no impact on the accounting surface,
25

1 ADWR required ALM to demonstrate those facts anew. ALM did so. In contrast, The Ranch's
2 northern well field is clearly inside the mapped zone of the Colorado River accounting surface.
3 The Ranch was never questioned on potential impacts and its application approved.

4 iii) ADWR rejected ALM's proofs of the lateral extent of the aquifer and
5 additional pump testing data to substantiate withdrawals and modeling. It required more data to
6 prove the lateral extent and saturated thickness of the deep aquifer, through a more extensive
7 drilling and mapping program, aquifer tests of longer duration; pumping tests of a 1 to 2 week
8 duration were required. In contrast, The Ranch conducted 4 aquifer tests to derive aquifer
9 parameters used in their modeling and impact analysis that included 3 tests of less than 6 hours
10 duration and one of 24 hours duration. ADWR accepted the aquifer test data for The Ranch
11 analysis of water adequacy even though ADWR Hydrologic Studies Guidelines state that "aquifer
12 tests for such studies (developments over 20 lots) need to be of long duration (from 24-72 hours
13 or longer) and must prove the continuous availability of the supply on a regional scale." Thus, the
14 Ranch was not required to demonstrate the justification for its assumptions of lateral extent and
15 estimation of saturated thickness of the upper aquifer. It only drilled a single well over 1000 feet
16 in depth and submitted limited and somewhat conflicting data. Yet, ADWR gave the Ranch credit
17 for significant saturated thickness which does not exist and is not supported by its data.

18 iv) The ALM Application and analysis relies on groundwater production from
19 wells in its proposed 7500 acre development area; the Ranch's Application relies upon a portion
20 of groundwater to be provided from a well field over 15 miles from the proposed development,
21 which would require the installation of pipelines utilizing easements and rights of way. ADWR
22 approved the Ranch's application without review of easements or consideration that the water
23 could ever be put to use on the property. ADWR's approval of that approach is inconsistent with
24 recently issued letters for other projects in Arizona.

v) ALM's analytical model to project the impact of pumping on long-term water levels was appropriate in cases where hydro geologic data is unavailable to accurately characterize regional groundwater conditions. ALM relied on that analytical model with an understanding it provides a more conservative projection of pumping impacts given the complex hydro geological conditions and relatively sparse amount of area-wide groundwater data available in Detrital Valley. Notes in ADWR's file indicate it was dissatisfied with that use of an analytical model until approval was granted on 2/17/06. In contrast, the Ranch utilized a numerical groundwater model in its impact analysis and ADWR approved the modeling analysis although there is insufficient data to support such a model. The limited data included in the Ranch groundwater flow model may overestimate the extent and saturated thickness of the aquifer, yet ADWR approved the Ranch application.

vi) The Ranch's use of ALM's proprietary data from its already pending application, with the implicit consent and approval of ADWR, gave the Ranch an unfair advantage and priority.

65. ADWR denied ALM the opportunity to be heard or to challenge the Ranch Application at any time during the application process.

WHEREFORE, Plaintiffs pray for an order of the court compelling the Arizona Department of Water Resources:

A. To rescind the April 11, 2006, Analysis of Adequate Water Supply for The Ranch at White Hills until American Land Management's Application has been approved.

B. To issue an order that ALM's Application for Analysis of Adequate Water Supply be deemed "complete and correct" on either May 17, 2005 or August 9, 2005 and that ALM has priority rights to the groundwater in the Detrital Valley Basin.

1 C. To pay ALM's attorneys fees and costs, pursuant to Rule 4(g), Rule of Procedure for
2 Special Actions.

3 **Claim Three**
4 (Administrative Appeal)

5 66. Plaintiffs re-allege and incorporate by this reference the allegations in paragraphs 1-65
6 of the complaint.

7 67. On April 11, 2006, ADWR issued its administrative decision in the form of its
8 Analysis of Adequate Water Supply for The Ranch at White Hills.

9 68. No administrative rules provide specific guidance in appealing the issuance of an
10 adequate water supply determination when it affects the groundwater rights of other property
11 owners.

12 69. ALM requested a hearing on the matter through its May 11, 2006 letter to the ADWR
13 director.

14 70. The ADWR director's June 7, 2006 denial of review and refusal to provide a hearing
15 is a final decision which judicial review is available.

16 71. ADWR's actions in denying ALM's Application priority and approving the Ranch
17 Application were contrary to Arizona law and administrative procedure; arbitrary and capricious,
18 and were not supported by substantial evidence.

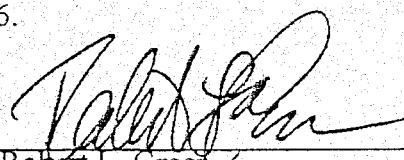
19 WHEREFORE, Plaintiffs prays for this court:

20 A. To review the procedures and determinations made by ADWR in processing ALM
21 and the Ranch's competing applications, and determine that ADWR's actions are not supported
22 by substantial evidence;

23 B. To issue an order that the ALM Application for Analysis of Adequate Water Supply
24 be deemed "complete and correct" on either May 17, 2005 or August 9, 2005 and that ALM has
25 priority rights to the groundwater in the Detrital Valley Basin; and
26

1 C. To rescind the Analysis of Adequate Water Supply for the Ranch at White Hills until
2 the ALM Application has been approved.

3 DATED this 12th day of July, 2006.

4
5 

6 Robert L. Greer
7 *Baird, Williams & Greer, L.L.P.*
8 6225 N. 24th Street, Suite 125
9 Phoenix, Arizona 85016
10 Attorneys for plaintiffs
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MICHAEL K. JEANES, CLERK
RECEIVED CCC #8
DOCUMENT DEPOSITORY

2007 JAN 17 PM 3:38

FILED

BY *N. Zamora*, DEP.

BAIRD, WILLIAMS & GREER, L.L.P.
6225 NORTH 24TH STREET, SUITE 125
PHOENIX, ARIZONA 85016
TELEPHONE (602) 256-9400
FAX (602) 271-9308

Robert L. Greer (005372)

Attorneys for plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

American Land Management, L.L.C., a South
Dakota limited liability company, Sedora
Holdings, L.L.C., a Delaware limited liability
company,

Plaintiffs,

vs.

Arizona Department of Water Resources, an
agency of the State of Arizona; H.R. Guenther
in his capacity as Director of Arizona
Department of Water Resources; and the State
of Arizona,

Defendants,

and

The Ranch at Temple Bar, L.L.C., a Nevada
limited liability company; Joshua Tree,
L.L.C., a Nevada limited liability company;
Arizona Acreage, L.L.C., a Nevada limited
liability company; Arizona Land
Development, Inc., a Nevada corporation;
Silver Basin, Inc., a Nevada corporation;
Cactus & Stuff, L.L.C., a Nevada limited
liability company; Flannery & Allen, L.L.C.,
a Nevada limited liability company; Gateway
Lots, L.L.C., a Nevada limited liability
company; and Smith Ranch Commercial,
L.L.C., a Nevada limited liability company,

Real parties in interest.

Case No. CV 2006-011146

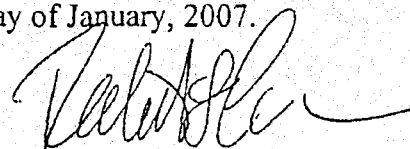
MOTION TO EXTEND ON INACTIVE
CALENDAR

(Assigned to the Honorable Hon. Glenn Davis)

1 As part of the routine management of the court's docket, the court administrator issued the
2 150 day order on December 30, 2006, requiring a Motion to Set And Certificate of Readiness to
3 be filed on or before April 24, 2007. (Exhibit A). But this court granted plaintiffs' motion to
4 extend the time within which service might be made to April 20, 2007, so hydrogeological studies
5 can be completed and ADWR will have a chance to evaluate the issues raised in the complaint.
6 (Exhibit B). Obviously it makes no sense to serve by April 20, then move the case to be set for
7 trial by April 23.

8 Accordingly, plaintiffs pray the court to enter an order extending this matter on the inactive
9 calendar for an additional 150 days from the deadline set for service or until September 17, 2007.
10 That will give plaintiffs sufficient time to file suit, for defendants to answer and for this matter
11 to be in a position to consider discovery deadlines and a trial date.

12 Respectfully submitted this 17th day of January, 2007.



13
14 Robert L. Greer
15 *Baird, Williams & Greer, L.L.P.*
16 6225 N. 24th Street, Suite 125
17 Phoenix, Arizona 85016
18 Attorneys for plaintiffs
19
20
21
22
23
24
25
26